ADVERSE ECOLOGICAL & HYDROLOGICAL IMPACTS OF OIL AND GAS OPERATIONS WITHIN THE SPANISH LAKE RESTORATION, L.L.C. WETLAND MITIGATION BANK

MAY 30, 2014

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Appendices

Adverse Ecological & Hydrological Impacts of Oil and Gas Operations
Within the Spanish Lake Restoration, LLC Wetland Mitigation Bank

May 30, 2014

Purpose

The purpose of this presentation is to identify certain mineral production activities within the Spanish Lake Restoration, LLC (SLR), Wetland Mitigation Bank (Bank) and Conservation Servitude (Servitude) area, which have created adverse hydrologic alterations that negatively impact the physical, biological, ecological and overall functional integrity of these priority wetlands. The oil and gas operations described herein have also seriously confounded SLR's ability to act as a reasonable and proper steward of the Servitude by routinely jeopardizing the long-term restoration, enhancement and preservation management practices in place.

A Pressing Concern

The Issue: A recent drastic increase in oil and gas production activities on the surface of SLR's Bank and Servitude, including the now-imminent construction of a new well/production facility (Appendix A, Figure 6, "Site 4"), as well as two recent separate above ground natural gas production pipelines, one composed of 1,331 linear feet and another with 3,450 linear feet, that have already been constructed upon and traverse SLR-owned wetlands (Appendices A, B & F). Neither company sought SLR's permission or authority prior to construction.[1] Both pipelines convey natural gas from wells not geographically located on SLR lands. Neither company, likewise, obtained USACE permits for the pipelines as required by the Servitude, pursuant to which SLR operates its Bank and as required by state and federal law. These pipelines have been used for the transportation of natural gas/methane, condensate and hydrocarbons across environmentally sensitive wetlands owned by SLR. One pipeline recently suffered a leak into the wetlands and as detailed below, both pipelines and other surface production activities are worsening the adverse hydrological conditions already present in these critically sensitive wetlands.

Introduction

The Bank was approved by the US Army Corps of Engineers (USACE) and Interagency Review Team (IRT)[2] in 1999, thru SLR's predecessor-in-interest Lago Español, LLC, (Lago),[3] with mitigation credits being made available as compensation for unavoidable impacts associated with the Clean Water

[1] After informal requests failed, SLR has sued both companies for the illegal trespasses and made demand that the pipelines be removed or buried. The companies have denied any and all fault, wrongdoing or the violation of any regulatory laws and by their recent actions, believe they can conduct oil and gas operations upon the surface of IRT's (Note 2, below) wetlands with impunity.

[2] IRT's federal agency signatories: EPA-Region VI, USACE-NOD, USFWS-Lafayette Div.

[3] Lago is a signatory to the Conservation Servitude affecting the lands now owned by SLR and is the signatory as "Sponsor" of the Interagency Agreement for Lago Español Wetland Mitigation Bank. The Conservation Servitude is recorded in the conveyance records of Ascension and Iberville Parishes and constitutes a real right running with the land pursuant to LSA-R.S. 9:1272, which makes it binding not only upon Lago, but its oil and gas lessees as well.

Act (CWA) §404 permitting. SLR purchased and became the Sponsor for this Bank in December of 2009, when SLR assumed all duties and obligations of the attendant Servitude, Interagency Agreement (IA)/Mitigation Banking Instrument (MBI), without modification. Since its inception, more than 250 CWA §404 permitted projects have received compensatory mitigation from SLR's Bank for adverse impacts to wetlands, most recently the compensation of 86.2 acres of Cypress Swamp that were impacted by the USACE's Lake Pontchartrain and Vicinity (LPV) Hurricane Storm Damage Risk Reduction System (HSDRRS) Mitigation Project for Non-Refuge Swamp Impacts.

EPA's Role

EPA Region-VI has contractual and jurisdictional authority and obligations attendant to SLR's Bank as a signatory to the IA/MBI, which includes rights and duties in conjunction with the Servitude. In short, SLR seeks EPA Region-VI's assistance in gaining active cooperation from the IRT in addressing its concerns. Without collective, concerted action of all signatories to the IA/MBI regarding certain oil and gas activities now occurring upon the surface lands of the Bank, SLR is simply not going to be able to complete the restoration and enhancement activities necessary for proper hydrological integrity and function within the Bank. As is further detailed below, the many adverse effects and impacts from recent oil and gas operations upon the surface of SLR's property, and IRT approved and administered Wetland Mitigation Bank, are indeed "unacceptable".

Wetland Functions and Values

SLR's Bank consists of approximately 4,000 acres of freshwater swamp and critical bottomland hardwood forested wetlands near Baton Rouge, Louisiana (Appendix A), all lying within the 24,000-acre Bayou Manchac Basin, which was created by the natural meandering of the Mississippi River over many millennia. The Bank contains some of the lowest elevations to be found in this area, with surface elevations averaging between 4 to 9 feet NGVD and the lowest elevations near sea level. Approximately 1,680 acres of the Bank are in Iberville Parish, with roughly 755 acres inside the St. Gabriel city limits, and the remaining 2,320 acres are in Ascension Parish; this entire area lies within the Atchafalaya National Heritage Area. Although much of the old-growth bald cypress was harvested in the late 1800's, there are still many individual old-growth bald cypress specimens that exceed 1,000 years of age on SLR's property in the Bank.

As depicted in Appendix A, Figure 2, Bayou Manchac, Bayou Braud, Alligator Bayou and Spanish Lake are the navigable waterways that traverse these wetlands (USGS Hydrologic Unit #08070202). While Bayou Manchac is no longer a natural distributary of Mississippi River floodwaters, it continues to be hydrologically connected with and tidally influenced by the Gulf of Mexico via the Amite River, Lake Maurepas and Lake Pontchartrain. Bayou Manchac is a designated La. Natural and Scenic River (La. R.S. 56:1856) and has also been classified as "impaired" by the La. Department of Environmental Quality (Sub-segment #040201). Bayou Fountain, which also is designated as "impaired", drains much of southern East Baton Rouge Parish into Bayou Manchac.

The densely vegetated Spanish Lake Sub-Basin provides natural hydrological functions that are vitally important for improving water quality by supplying critically needed flood-water storage, as well

as, beneficial sedimentation, de-nitrification and nutrient assimilation for the densely populated and developed East Baton Rouge, Iberville and Ascension 3-Parish region. An example of the valuable flood storage capacity of the Spanish Lake Sub-Basin and SLR was demonstrated by Tropical Storm Allison (Appendix A, Figure 3). This storm resulted in record rainfall and flooded commercial and residential areas adjacent to the Sub-Basin, including the Elayn Hunt Correctional Facility in St. Gabriel. Also, during annual flood events, the Spanish Lake Sub-Basin is the primary flood storage area protecting private, public and commercial interests from periodic flooding.

The primary tributaries or head waters of Bayou Manchac---Bayou Braud, Bayou Paul, and Alligator Bayou---collectively drain approximately 28,000 acres of elevated farmland, industrial areas, as well as, many rural and urban residential developments that utilize private septic tank systems. Since 2005, the prior farmland adjacent to the Spanish Lake Sub-Basin that lies on the natural shoreline of the Mississippi River in south Baton Rouge has now been developed as part of recent urban sprawl. Such expansion includes the construction of the $400M L'Auberge Casino, the Cypress Mounds Baseball Complex, large soccer facilities, strip malls and over 600 acres of residential development. Moreover, the Bayou Manchac Basin, including SLR's Bank, remains a vital forested wetland ecosystem for numerous migratory waterfowl, songbirds, birds of prey (including Bald Eagles), wading birds and other avian species that frequent the Sub-Basin to take advantage of the natural periodic flooding and drying of these surface soils.

Ecosystem Decline and Hydrological Restoration

In recent times, approximately 14,000 acres of forested wetlands, including 2,800 acres within SLR's Bank, began to exhibit forest decline and started converting to a less productive ecosystem. This was due in part to the improper operation of the Alligator Bayou/Bayou Manchac Floodgate (Appendix A) that had been constructed in 1953 to prevent catastrophic backwater flooding from the Amite River. In 2009, SLR and adjacent landowners conducted ecological studies that ultimately led to the opening of the Floodgate by Parish authorities and the adoption of a Parish resolution in 2010, which implemented the "open" gate operations. In essence, the studies showed that by operating the flood-control device in a closed position (i.e., essentially using the Floodgate as a fixed weir), these 14,000 acres were being unnaturally flooded practically year round for 50+ years, which had replaced the natural, seasonally-inundated hydrologic regime with one of permanent flooding that facilitated the ecosystem decline. Although the hydrological restoration of the Manchac Basin (via proper opening of the Floodgate) was legally challenged by a landowner within the basin, this decision has been upheld in the courts. Recently, USACE issued notice that it was assuming control of the Floodgate (Appendix A, Figure 4).

For SLR, securing the correct operation of this Floodgate was an instrumental first step in re-establishing the natural hydrological flow within SLR property by re-establishing the natural hydrologic flow throughout the entire Manchac Basin and Spanish Lake Sub-Basin. Following the opening of the Floodgate in 2009, the average surface elevation of waterways within SLR Bank's was lowered from 5.8 feet to 1.2 feet NGVD. This hydrologic restoration effort has greatly reduced some of the excessive ponding, vegetative death and has allowed for slow drainage of some of the man-made impoundments.

However, additional hydrologic restoration is vital for further enhancement or re-establishment activities needed to restore this important ecosystem.

In addition, the USACE has advised that the Ordinary High Water Mark for Bayou Manchac and Frog Bayou is 9.5 NGVD. Therefore, any land currently at or beneath this mark within the Bank is considered to be Jurisdictional Waters of the United States.

Continued Hydrological Impact from Oil and Gas Operations

In 1941, the St. Gabriel Oil Field (Field) was established throughout approximately 1,000 acres of the Sub-Basin on the impacted side of the Floodgate and within the lowest elevations that had largely supported natural cypress swamp habitat. Although the Field was sporadically productive from 1941-1980, it had become largely inactive by 1990 when Lago established the subject Bank and incorporated approximately 400 acres of this Field for enhancement and preservation credits. This area is also included within the attendant 4,000-acre Servitude.

To access these mineral deposits, oil companies had constructed large, elevated access roads and placed them with little or no concern for adverse hydrologic and/or wetland impacts. Typically, these roads were created by excavating and spoiling on-site mineral soils and subsequently incorporating surface level layers of shell and limestone for structural stability. Culverts were placed under these roads in some locations; however, the spacing and number of installed culverts was haphazard and woefully inadequate to mimic the natural overland free-flow of waters across the Sub-Basin. In addition, abandoned oil and gas well pad sites, containment levees, pits, exploration and production equipment, tank batteries, pipelines and other facilities were scattered throughout the oil and gas field, which only further hindered and obstructed the normal natural flow of waters. The borrow ditches and pits adjacent to the elevated roads have effectively become stagnant elongated ponds that only receive flows during certain high water events (Appendix A). Moreover, bridges with multiple pilings were installed across Bayou Braud, causing extensive log-jams and obstructions that adversely alter the natural stream flow and stream levels.

USGS Light Imaging Detection and Ranging (LIDAR) elevation data for the St. Gabriel Field reflects that some of these access roads have an average elevation between 7-11 feet NGVD, whereas natural surface elevations range from 4-7 feet NGVD (Appendix A). However, there are several access roads that appear to be lower than 7 feet NGVD, but these too act as unnatural impoundments. Indeed, during the 50+ years that the Floodgate was improperly closed, the culverts became clogged, damaged and remain in a state of disrepair. The result is that the access roads have effectively functioned as levees that continue to inundate very large tracts of acreage for several months. The largest area that remains completely impounded within the Bank is approximately 325 acres. This excessive and destructive water ponding is shown in Appendix G which was taken following high rainfall events in January-February 2013.

Further and continued improvement of the internal natural hydrology within SLR's Bank has become a primary objective in SLR's ongoing efforts to complete the restoration of these forested wetlands.

Recent Oil and Gas Operations

When SLR purchased the Lago Español Wetland Mitigation Bank in December of 2009, there were ***no*** operational or producing wells on SLR's property. Prior to that, Lago had entered into two Mineral Leases to begin reworking 2 old, inactive wells (sites/pads) on properties adjacent to the Bank. Also, Lago had entered into two Mineral Leases in 2006-07 with the predecessors of Alta Mesa Services, LLP and Petrodome. Lago ***never*** intimated to SLR that it was ever going to actively start pursuing new mineral operations on the surface of Bank property and within the confines of the Conservation Servitude. However, that's exactly what began happening, and with alarming frequency not long after the sale of the surface by Lago to SLR, wherein Lago reserved the mineral rights.[4]

Lago's reservation of rights to explore for and develop minerals is limited to **subsurface** activity and then, only upon procurement of all appropriate permits.[5] "Production" activities, which are largely surface endeavors, are NOT and were not ever reserved (assuming such reservations can even lawfully be done).[6] It is noteworthy that neither of the current offending production pipelines constructed across the surface of SLR's wetlands by Alta Mesa and Petrodome is even for well-heads located within the Mitigation Bank. Indeed, other less-intrusive choices were available to both companies that would not have required traversing and damaging SLR's wetlands. As detailed below, neither company sought or obtained permits from USACE for above ground natural gas production pipelines, nor was permission obtained from SLR for the pipelines.

Alta Mesa and Petrodome, Lago's mineral lessees, have conducted extensive above ground oil and gas activities, including production operations, upon SLR lands. These activities have been conducted without obtaining permission from SLR and without appropriate USACE permits, and consist of the following:

1. Construction, installation and maintenance of above-ground natural gas production pipelines, compressors and appurtenances;
2. Access road construction/improvements to address prior soil compaction and subsidence, which has increased the height of these roads and the amount of water impounded;

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[4] In Louisiana, the reservation by a Seller of immovable property is not an unusual scenario because mineral rights have a 10-year prescriptive period (statute of limitations), where after 10 years all unused or inactive mineral rights automatically revert to the surface owner).

[5] The Conservation Servitude sets forth explicit limits on Lago's access to minerals:

"4. ***Subsurface*** **Mineral Extraction**. Lago Espanol reserves the right to **explore** for and **develop** ***subsurface*** minerals (with the exception of gravel, sand and salt), including oil, gas and geothermal energies and pressures from the Property, subject to the terms of required permits. Such ***subsurface*** exploration or development may be carried on only in such manner and with the use of such methods so that any impact on the surface of the Property will not be greater than a limited, localized impact, and no permanent destruction of any of the conservation values of the Property may occur without compensation for the loss of wetland value."

[6] **Louisiana Revised Statute 9:1273(D)** provides that "[a]ny [mineral] interest in immovable property in existence at the time a Conservation Servitude is created is not impaired by the Conservation Servitude, UNLESS the owner of the interest [Lago] is a party to the Conservation Servitude." Simply put, Lago "impaired" its mineral interests at the very moment it created the Conservation Servitude and any efforts to "reserve" and/or try to later claw-back mineral interests already impaired, as a matter of law, is contrary to the plain wording of the statute.

3. New access road improvements, including new turn lanes, across wetlands;
4. Building new and/or raising old well pads to higher base elevations;
5. Numerous levees, excavations and borrow pits; and
6. Lack of culverts under new and/or improved access roads sufficient to restore and maintain natural sheet-flow and prevent ponding.

All of these production-related surface operations are in direct contravention of the express language contained within the Conservation Servitude, which requires proper permits for all such activities that are supposed to be limited to **subsurface exploration** or **development**.

The location and operators of the reworked and proposed wells are shown in Appendix A, Figure 6, and include five well locations and adjacent access roads as follows:

Site 1 -- Operator: Alta Mesa Services, LLP

→Permit Status - Unauthorized

***Pontchartrain Well* – (North of SLR's Section 7 Property)**

The well pad and storage tanks are off SLR property but access through SLR is required. A Section 404 permit was not secured for the well pad rework or 3,450 feet of exposed pipeline installed within the Bank. Both the well pad and pipeline are entirely within jurisdictional wetlands and lie below the USACE ordinary high water mark of 9.5 feet NGVD of Bayou Braud. Appendix B includes photographs of this well-pad (off SLR's property) and the 3,450 feet of pipeline that's located on SLR property.

Site 2 -- Operator: Alta Mesa Services, LLP

→Permit Status - Unauthorized

***Natalbany Heirs Well* – (Section 7)**

The operator conducted unauthorized clearing, grading and excavation of 3,200 cubic yards of soil within wetlands on SLR's property, all without notice to/authorization from the landowner or securing a CWA Section 404 permit. The spoil removed was discharged in nearby jurisdictional wetlands to raise the elevation of Alta Mesa's new well pad (off SLR's property), located approximately 2,000 feet to the south. A large debris pile was left on the abandoned well pad on SLR's property and destruction of the surrounding wetlands remains evident today. No culverts were replaced, nor was the access road improved, which has resulted in continued access problems due to heavy rutting. This only exacerbates sheet flow and ponding problems. Appendix C includes photo documentation of this unauthorized activity in November 2012.

Site 3 – Operator: Alta Mesa Services, LLP

→Permit Status - NOD 13 Permit Issued

***Natalbany Well 18* – (Within Section 18 & Adjacent to SLR's Section 18 Property)**

This well site is off property. Appendix D includes site photographs showing this newly constructed well pad flooding and discharging process waters into wetlands on SLR's property,

as well as into other jurisdictional waters. The well pad was partially elevated using spoils unlawfully taken from SLR's lands in Section 7 (***Natalbany Heirs Well***, as outlined above). Recent site photographs show that the well pad is eroding and discharging into forested wetlands. SLR filed objections to USACE for issuance of the permit under NOD 13 as shown in Appendix D.

Site 4 – Operator: Alta Mesa Services, LLP

→Permit Status - Individual §404 Permit Issued – *Imminent* Construction

***Natalbany 8* – (Section 7)**

SLR, as owner of the surface, did ***not*** grant permission to Alta Mesa Services, LLP to enter onto the property and filed a letter of objection during the Individual §404 Permit Public Notice period. Any attestation that the "Owner" of the property supported and/or did not oppose issuance of a permit to Alta Mesa is false. SLR, likewise, refused to acquiesce when Alta Mesa's §404 Permit Application was first submitted as an NOD-13, General Regional Permit. The proposed well rework is on SLR property, very near the unauthorized clearing and grading outlined above (i.e., ***Natalbany Heirs Well***). The requisite Permit Application drawings do not "clearly" show the location, character, extent or number of any production pipelines or related surface appurtenances in its Final Permit and which, like the other Permits addressed herein, does not reflect the identification or the authorization of any "proposed work" in the form of surface installations, pipelines, production facilities or any other improvements. (Appendices A & E) [7]

Site 5 – Operator: Petrodome

→Permit Status – Unauthorized for Pipeline on SLR Property; NOD 13 Permit Issued (Well Pad only, in Section 13, South of SLR's Section 12 Property)

In 2011, Petrodome reworked an abandoned well adjacent to SLR's western property tract as shown in Appendix A, Figure 6 and site photographs included in Appendix F. As with the **Pontchartrain Well** rework near Bayou Braud (Site 1, above), an existing access road through SLR required grading, grubbing and fill to support the heavy equipment and rework of the well itself, but no additional culverting was performed. An original Section 404 permit was issued for the well rework in 2006, which had expired by the time the complained-of activities were completed. Appendix G includes low altitude (helicopter) photographs showing the entire well pad under water following a heavy rainfall and backwater event in January - February 2013. **No permit was secured for the installation of approximately 1,331 linear feet of exposed above ground natural gas production pipeline upon SLR lands in Section 12 and additional linear footage within Section 7.**

[7] The Interagency Agreement provides: ***"Impacts to wetlands within the Lago Espanol Wetland Mitigation Bank shall be mitigated by debiting the appropriate credits from the mitigation area, if sufficient credits are available. In cases where sufficient credits are not available, the Permittee will be responsible for fulfilling all or part of his compensatory mitigation requirement elsewhere, as approved by NOD."*** USACE authorized Alta Mesa to buy their Mitigation Credits from ANOTHER Mitigation Bank, even though the very acreage to be mitigated because of impacts to the wetlands is within SLR's Bank.

USACE Application of the NOD-13 General Permit for Oil and Gas Exploration

The USACE-NOD often utilizes a regional general permit, NOD-13, for proposed and ongoing oil and gas exploration, including: *"dredging and deposits of dredged and/or fill material for construction of oilfield roads, drilling locations, pits, levees, and associated facilities in the wetlands of the New Orleans District."* The NOD-13 was issued on March 22, 1981, which was long before the advent of federally recognized Wetland Mitigation Banks, and it has not been appropriately updated. The basic problem, besides inconsistent application and enforcement of the "special conditions" therein, is that the NOD-13 treats SLR's property as "ordinary wetlands"[8] and does not even recognize the existence of an approved/regulated Mitigation Bank that is co-managed by an IRT (which herein includes federal agencies: EPA, USACE, USFW) and operates under an MBI, IA (contractually binding those same federal agencies, herein with SLR) and also a Conservation Servitude that runs as against any "user" of this property in perpetuity.

All NOD-13 Permit Applications for "approved work" are supposed to (i.e., "must") include: "**Special Conditions** (d)(1) A completed Application Form (ENG 4345) and **drawings clearly showing the *location*, *character* and *extent* of the proposed work;** (2) A **detailed discussion of alternative drilling sites and alternate routes** considered and **WHY an apparently less environmentally damaging alternative was not selected;** (3) A **compensatory mitigation** plan…**performed within the same geographical area as the project site**, etc.); and **(4) Signed statements from the affected landowner establishing they have no objection".** Additionally, "to insure compliance with conditions immediately above, drawings submitted with Applications for work under this General Permit **must**: (1) **Show all existing roads, waterways, well locations, pipelines, canals, etc., within one mile** of the proposed work site; (2) Provide the authorization under which any existing privately-owned road which connects with a proposed road was constructed." There are also restoration requirements that are supposed to be performed by Applicants when a well is abandoned and when it is productive. Geologic review meetings are mandated for "all board roads, regardless of length…and ring levees larger than 300' X 300'". There is, however, a vast gulf between what is required and what is actually done.

Wetland Impacts of Oil and Gas Activity on SLR

It is particularly important to note that the placement of above ground production pipelines along existing access roads within SLR lands has created both cumulative and secondary impacts regarding surface hydrology and habitat. Although the above ground pipelines impact surface hydrology, they differ in the degree of impact. This variation is based on the location and proximity of the above ground collection line to Bayou Braud and its periodic overbank flooding, which is influenced by climatic events such as rainfall, backwater flooding, winds, storms, etc. Appendix G contains both aerial and ground photography of Sites 1-5 during the January – February 2013 high water event. During this event, almost all of SLR's wetlands under the Servitude were flooded for a minimum of 30 days,

[8] NOD-13 expressly exempts certain similar areas from any authorized work: *"In or within one mile of the boundaries of any national park or monument, wildlife refuge, management area, state park, and established buffer zone at a national park site, without approval of the respective park, refuge, management area or monument manager."*

except for portions of the more elevated access roads. In February 2014, the USACE set the "ordinary high water mark" for Bayou Manchac at the Alligator Bayou/Frog Bayou intersection at 9.5 feet NGVD, meaning that all of SLR's property is subject to the Clean Water Act and the Rivers and Harbors Act.

Cumulative Impacts

At no point has any applicant submitted, nor has USACE required or conducted, a proper cumulative impacts analysis regarding any of the subject CWA §404 Permits as part of the Environmental Assessment (EA) required by the National Environmental Policy Act (NEPA), 42 USC §4332. The EA component is supposed to adequately analyze the cumulative environmental impacts of the proposed action within the context of all other past, present and reasonably foreseeable actions in the same area. And without a thorough evaluation of the cumulative environmental impacts of any given proposed individual wetland project, it seems anomalous to suggest that anyone could make a considered decision to protect the public interest in maintaining or even restoring natural hydrological function to this critical watershed, let alone to help protect the contractual/legal interests of SLR and the IRT Members to ensure that Bank/Servitude property is managed and protected in perpetuity for the express purpose of performing wetland functions. Moreover, when the NOD-13 and Individual §404 Permit Applicants are not required to submit detailed drawings of the location, character and extent of the proposed work nor a detailed analysis of alternative drilling sites and routes, etc., then the mandated EA becomes little more than an abstract exercise in academic futility wherein NO public or landowner/Sponsor or IRT interests are capable of effectively being protected.

Cumulative Impacts – Alta Mesa (Pontchartrain) Well and Above Ground Pipeline

The above ground natural gas production pipeline constructed on SLR property (approximately 3,450 linear feet of the pipeline is located on SLR property) originating from the unauthorized, off-site Pontchartrain Well, is located on the east side of the access road. This road is parallel to Bayou Braud, which waterway is approximately 600 feet further to the east. The pipeline is also on top of the ground at elevation 5-6 feet NGVD creating a continuous hydrologic barrier below the USACE ordinary high water mark for Bayou Braud of 9.5 feet NGVD and is therefore, within the Bayou. During overbank flooding events, this pipeline and the entire access road surface is completely underwater, which inhibits ingress/egress as shown in Appendix H. This pipeline is highly susceptible to being damaged as it is frequently traversed by heavy equipment, trucks and recreational vehicles (Appendix H-7). In April, 2014, SLR maintenance crews observed and reported a ruptured segment of this pipeline spewing into the protected hardwood swamp, discharging methane gases, condensate, hydrocarbons, etc., into the air and onto the surface waters, leaving behind a light oily sheen. The pipeline is also subject to falling trees and limbs and service vehicles, well work-over rigs and large waste removal trucks during flooding.

Cumulative Impacts – Petrodome Well Pad and Above Ground Pipeline

The rework of the Petrodome well pad and ongoing operations, along with the construction of 1,331 linear feet above ground production pipeline, have collectively impacted wetlands and exceeded the conditions of the subject (expired) NOD 13 permit. This pipeline was laid adjacent to and slightly elevated off the access road shoulder and was not shown in the Section 404 Permit Application or

attendant drawings, making it unauthorized work. This pipeline impairs surface hydrology as it acts as a small berm to surface flow, accumulates debris, is a hazard to large trucks, and is frequently traversed by recreational vehicles making it highly susceptible to damage and potential rupture. All of these surface impacts affect ingress and egress of aquatic species such as ichthyes, herpitiles, mammals, and aves, as well as other natural processes associated with rising and falling streams. It should be noted that both the above ground pipeline and the entire access road is between elevation 7-9 feet NGVD and becomes completely submerged during high water events as shown in Appendix H.

Secondary Impacts - Ongoing, Unauthorized Oil and Gas Exploration

The secondary impacts to the Bank, the Spanish Lake Sub-Basin and Manchac Basin from historic and ongoing oil and gas activity, including the installation of above ground pipelines, continue to thwart the restoration of natural surface hydrology in the oil and gas area. The secondary impacts from oil and gas exploration must be viewed from and within the context of the overall operational history of this legacy oil and gas field. The culverts for the initial roads were insufficient, therefore merely installing new culverts for new oil and gas activity areas neither improves nor insures restoration of already impacted surface hydrology. As noted herein, these large access roads act as levees and any additional construction along the shoulders, such as surface pipelines, only makes them wider and levee higher, preventing even more natural sheet flow during high water events. It should also be noted that at some locations other abandoned gathering lines have not been removed and are partially covered with soil and the new pipelines are installed on or adjacent to these old lines, which makes the elevation of the "levees" even higher as shown in Appendix H. These are collective, cumulative actions with resulting wetland impacts that need to be remedied. Additional secondary adverse impacts to SLR's Bank from oil and gas operations, along with those shown in Appendix H, include:

- Observed gas pipeline leaks, which left oily discharges upon the surface of the waters in these wetlands;
- Hydrologic ponding within open pits emitting hydrocarbon odors;
- Severely stained soils in abandoned pits with abandoned/exploded storage tanks;
- Dangerous, broken abandoned pipelines that remain harmful to wildlife and humans;
- Prior elevated well sites and levees not returned to pre-existing conditions;
- Leaking containment levees, oily discharges and putrid emissions from old rusted and unmaintained equipment in jurisdictional wetland areas; and
- Extensive litter, old equipment, containers and drums, diesel drums, abandoned pipeline, crushed (and not replaced) culverts, tires, rims, vehicle gas tanks, gauges and valves.

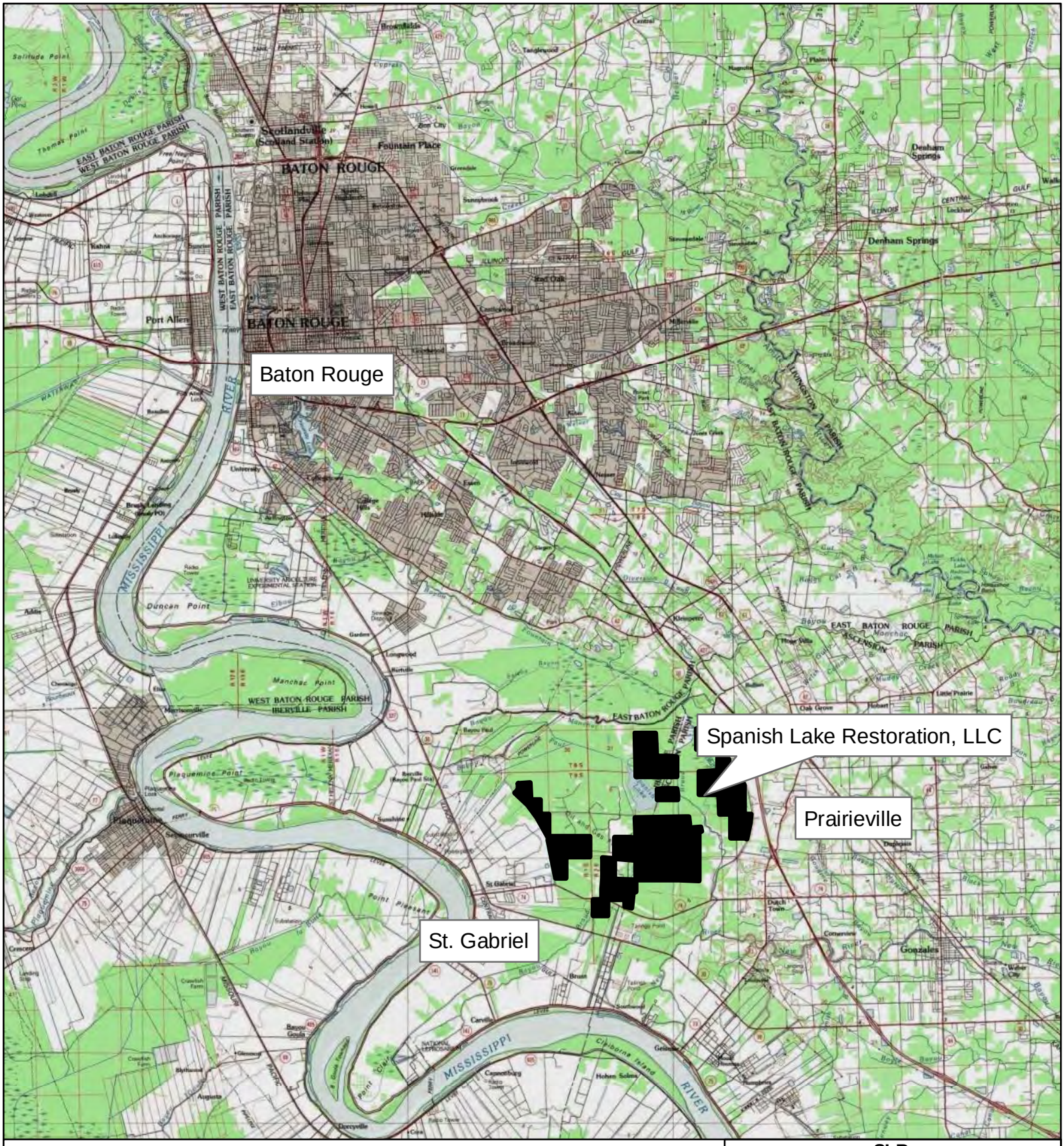
Summary

Approved Wetland Mitigation Banks are federally directed and recognized conservation management and priority restoration areas, wherein private landowner ("Sponsors") are required to protect wetland functional values and abide by the terms of their respective MBI, IA and Servitude documents. Herein, the IRT is comprised of three federal agencies: EPA, USACE & USFWS. These agencies are collectively the co-signatories with SLR to the IA/MBI. SLR is unable to undertake any further significant restoration and enhancement activities without the help and active cooperation of its IRT Team. A lot has been done already to restore the natural hydrological processes of the Manchac Basin/Spanish Lake Sub-Basin; however, recent oil and gas operations upon the Bank's surface lands threaten to undo and perhaps, worsen the vital environmental and ecological benefits already gained. In short, no surface production well activities, pipelines, equipment or appurtenances should be permitted anywhere within the confines of the IRT's Bank and Servitude in these jurisdictional waters.

To help accomplish this, SLR's approved Wetland Mitigation Bank should be identified as a primary priority site, where NO oil and gas surface operations ought to be permitted within the Bank's confines, whether by Individual Permit or Regional General Permit. Any proposed activity, whether subsurface or even adjacent to Bank/Servitude property, needs to require a proper EA, an in-depth cumulative impacts analysis of both direct and indirect impacts associated with the proposed activity, as well as, a detailed analysis of alternative and less environmentally damaging approaches to the proposed activities. It is imperative to the successful hydrological and functional restoration of SLR's Bank--let alone the wider Spanish Lake Sub-Basin and Manchac Basin--that ANY such proposed wetland discharges and related activities conform to and be consistent with the mutually agreed upon goals and objectives of the Bank, the IA, the Servitude and the attendant MBI.

Thank you for the opportunity to comment on this activity.

Appendix A
Report Figures 1-6



Legend

SLR Property Boundary

3.0 1.5 0 3.0 Miles

NRP

N

Map Notes:

1. The boundary shown is based on the boundary survey provided by the client.
2. Map projected to NAD83 UTM Zone 15.

SLR

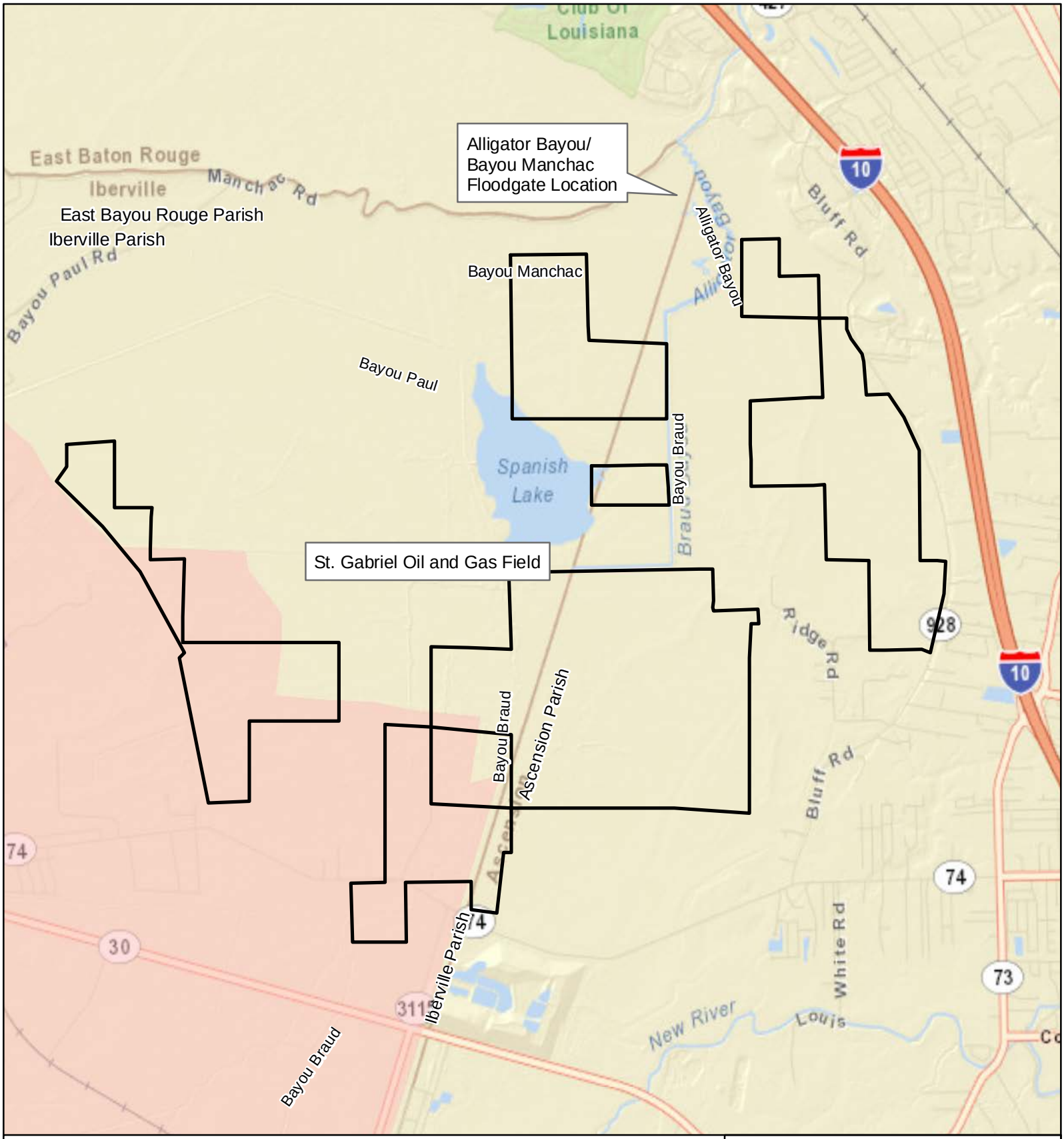
Baton Rouge, LA

VICINITY MAP

IBERVILLE/ASCENSION PARISH, LA

Created :	AGB/ArcView
Approved :	SPN
Date :	05/20/2014
Map No. :	

FIGURE 1



Legend

- SLR Property Boundary
- City of St. Gabriel

4,200 2,100 0 4,200 Feet

Map Notes:

1. The boundary shown is based on the boundary survey provided by the client.
2. Map projected to NAD83 UTM Zone 15.

N

SLR

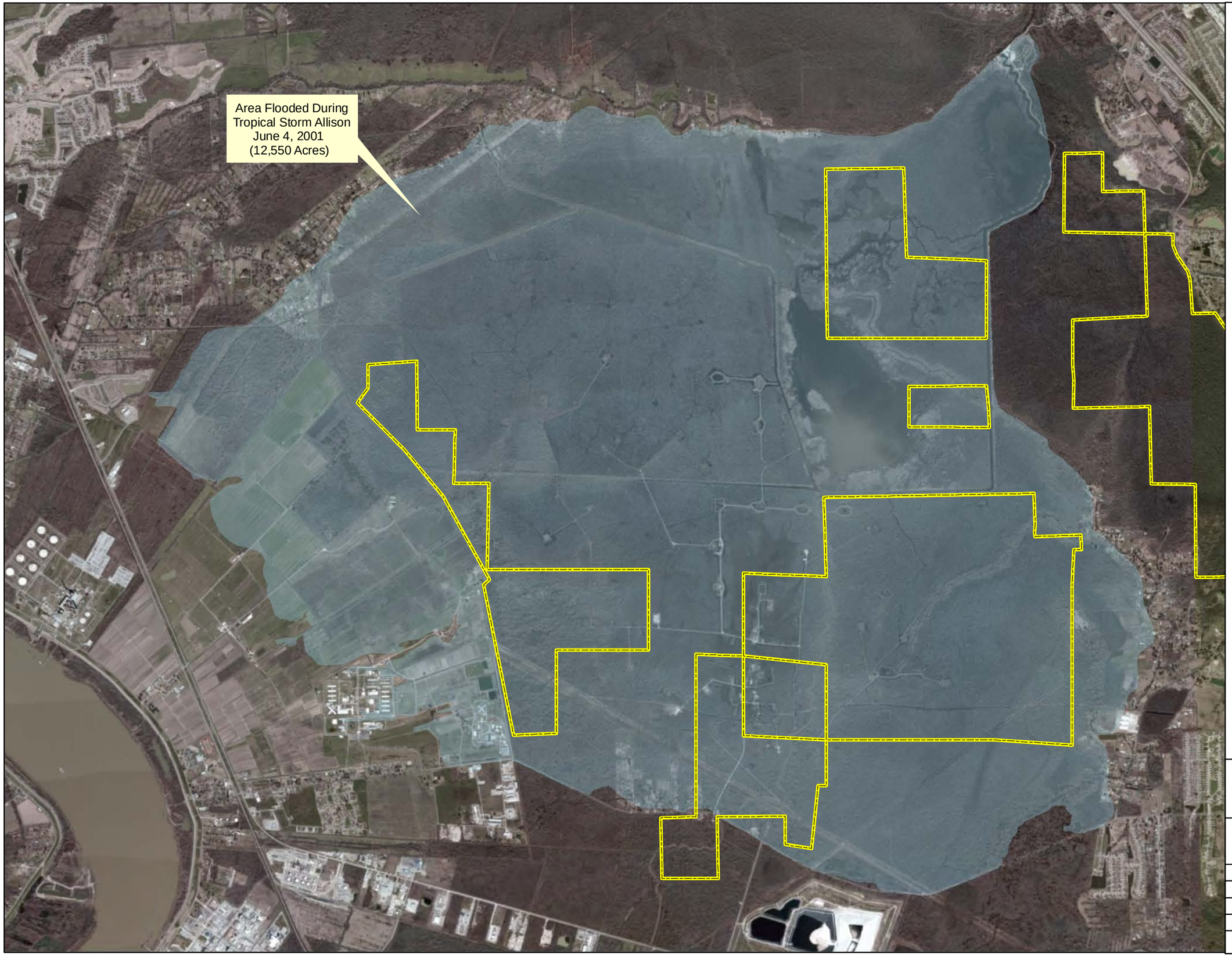
Baton Rouge, LA

EXISTING HYDROLOGY MAP

IBERVILLE/ASCENSION PARISH, LA

Created :	AGB/ArcView
Approved :	SPN
Date :	05/20/2014
Map No. :	

FIGURE 2



N

2800 1400 0 2800
Feet

Legend

- SLR Property Boundary
- Area Flooded During Allison

Map Notes:

1. The boundary shown is based on the boundary survey provided by the client.
2. Map projected to NAD83 UTM Zone 15.

NRP

SLR

Baton Rouge, LA

TOPOGRAPHIC MAP

IBERVILLE/ASCENSION PARISH, LA

Created By:	ELP/ArcView
Approved:	SPN
Date:	5/20/2014

FIGURE 3

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

REPLY TO
ATTENTION OF

AUG 0 5 2013

Operations Division
Surveillance and Enforcement Section

Mr. Bill Roux, Director
East Ascension Gravity Drainage District
Post Office Box 1659
Gonzales, LA 70707

Dear Mr. Roux:

On July 23, 2012, our office responded to an emergency request, on behalf of the East Ascension Gravity Drainage District, to replace a water control structure between Frog Bayou and Bayou Manchac. Based on the information we had at the time, we determined that Bayou Manchac was subject to Section 404 of the Clean Water Act (CWA) and the replacement of the structure did not require further authorization from our office. This work was performed on property described as the Frog Bayou Structure on Alligator Bayou Road in Sections 58 and 28, Township 8 South, Range 2 East, Ascension Parish, Louisiana.

We later learned that temporary pumps and pipes were added to the project. These constituted modifications that were outside of the scope of our previous review. A site visit was conducted to inspect the work. It was determined that the activity did not result in a CWA regulated discharge of dredge or fill material.

Based on a review of new information, we have determined that Bayou Manchac is tidal and subject to Corps' jurisdiction under Section 10 of the Rivers and Harbors Act. Because the site has been returned to pre-project condition, no further action is required at this time. Please be advised however, that a Department of the Army Section 10 permit will be required in the future prior to any work in, over, under, or through Bayou Manchac and the lower reach of Frog Bayou. This letter is advisory in nature.

Should there be any questions concerning these matters, please contact Mr. Michael Windham at (504) 862-1235 and reference our Account No. MVN-2013-00847-SK. If you have specific questions regarding the permit process or permit applications, please contact our Central Evaluation Section at (504) 862-2577

Sincerely,

Martin S. Mayer

Martin S. Mayer
Chief, Regulatory Branch

NRP

SLR

Baton Rouge, LA

LETTER FROM USACE

Date : 05/20/2014

FIGURE 4

Legend

ELEVATION

- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9 - USACE OHW 9.5
- 10
- 11

Riverine Overland Flow

Flow to Bayou Manchac

Pontchartrain

Natalbany 8

Non-Elevated Access Rd
Potential Jurisdictional Wetland
On SLR Property

Approximately 700' from Bayou Braud to access road

Natalbany Heirs

Riverine Overland Flow

Bayou Braud

Elevated Pipeline, Access Rd and Spoilbank On SLR Property

Elevated Pipeline, Access Rd and Spoilbank Off SLR Property

Linear Barrow Ditches On SLR Property

Linear Barrow Ditches Off SLR Property

Elevated Access Rd and Spoilbank On SLR Property

Linear Barrow Ditches On SLR Property

Petrodome

Sheet Flow

Main Access Rd Elevated to LA Hwy 74

Natalbany 18

N

500 250 0 500 Feet

Legend

- SLR Property Boundary
- Above Ground Pipeline On Property
- Above Ground Pipeline Off Property
- Existing Access Roads
- Well Locations

Map Notes:

1. The boundary shown is based on the boundary survey provided by the client.
2. Map projected to NAD83 UTM Zone 15.

NRP

SLR

Baton Rouge, LA

TOPOGRAPHIC MAP

IBERVILLE/ASCENSION PARISH, LA

Created By:	AGB/ArcView
Approved:	SPN
Date:	05/20/2014

FIGURE 5

Site 1
Alta Mesa
Pontchartrain
Well Location
off property

Reworked 2009
Unauthorized Activity
Not permitted

577 ln ft
off property
above ground pipe

Site 4
Alta Mesa
Reworked
Natalbany 8
Well Location
Permitted
on property

Site 2
Alta Mesa
Natalbany Heirs -
Goodrich
Abandoned well pad
on property

Unauthorized excavation
of approx. 3,200 cu yds of
fill within wetlands

1,338 ln ft
on property
above ground
pipeline

2,319 ln ft
off property
above ground
pipeline

Bayou Braud

3,450 ln ft
on property
Above Ground Pipe
within potential
wetlands
Safety Concern/404 Permit

879 ln ft
on property
above ground
pipeline

Existing
Compressor
Station

400 ln ft
off property
above ground
pipeline

Site 5
Petrodome
Reworked Well
Location
Off Property

NOD 13 (2006)
expired by time of rework

2,167 ln ft
off property
above ground
pipeline

Site 3
Alta Mesa
Reworked
Natalbany 18
Well Location
NOD 13 Issued
off property

Location of 3,200 cu yds of
fill discharged into wetlands
from Natalbany Heirs-Goodrich Well

N

500 250 0 500
Feet

Legend

- SLR Property Boundary
- Existing Access Rds (14,906 ln ft)
- Above Ground Pipeline On Property
- Above Ground Pipeline Off Property
- Well Locations

Map Notes:

1. The boundary shown is based on the boundary survey provided by the client.
2. Map projected to NAD83 UTM Zone 15.
3. ArcGIS Aerial Image 2009

NRP

SLR

Baton Rouge, LA

EXISTING OIL AND GAS ACTIVITY
SITE MAP
IBERVILLE/ASCENSION PARISH, LA

Created By:	AGB/ArcView
Approved:	SPN
Date:	05/20/2014

FIGURE 6

Appendix B
Site #1
Alta Mesa (Pontchartrain) Photos
2013-2014

January 2013-Pontchartrain Well Pad

January 2013-Pontchartrain Well Pad

(Off SLR Property/Origin of Above Ground Pipeline within 3450’ of SLR)

(Pontchartrain Surface Pipeline to Storage Tank, Off SLR Property)

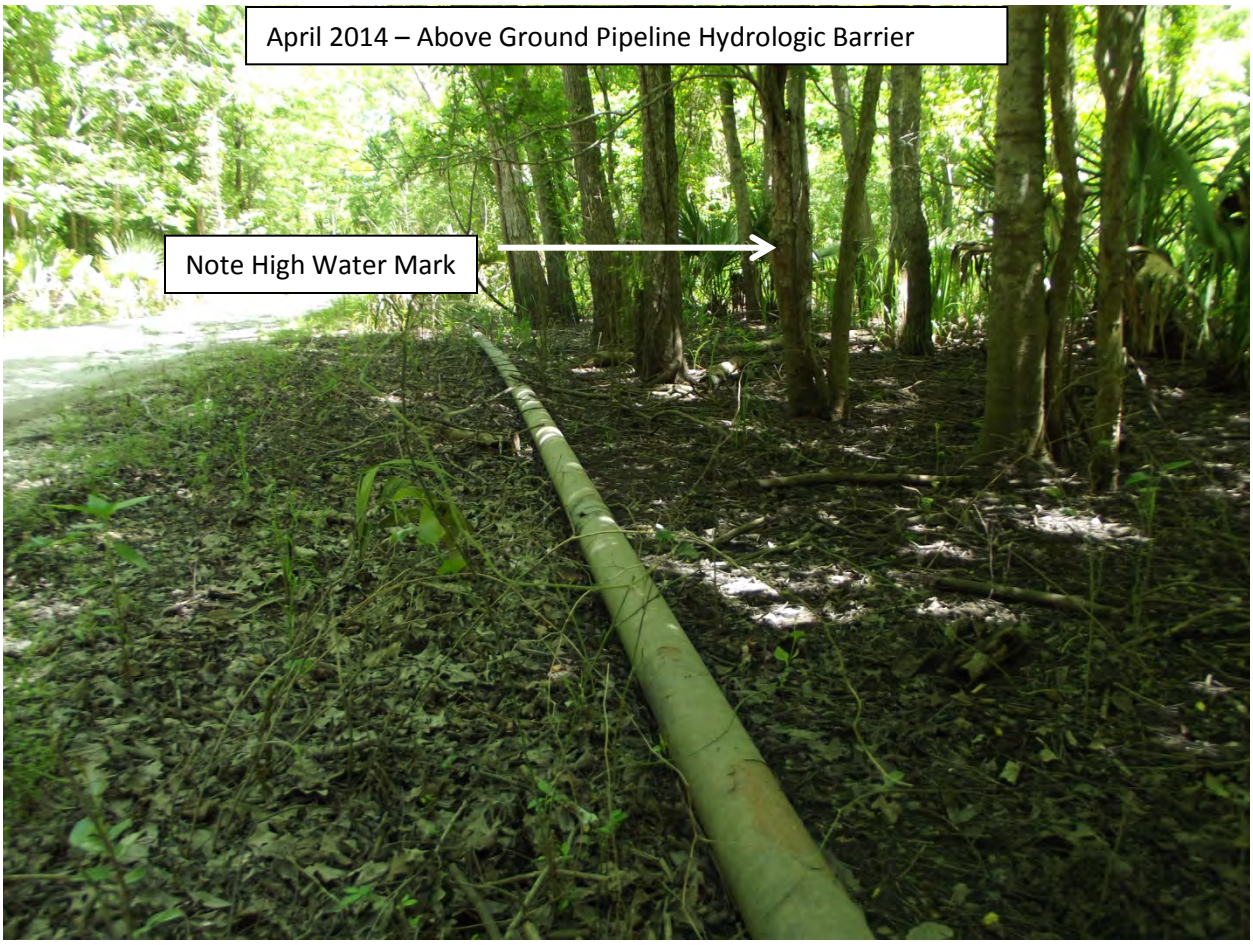
Alta Mesa/Pontchartrain Above ground pipeline on 3,450 linear feet SLR Property

Alta Mesa/Pontchartrain Above ground pipeline on 3,450 linear feet SLR Property

Alta Mesa/Pontchartrain Above ground pipeline on 3,450 linear feet SLR Property

Alta Mesa/Pontchartrain Above ground pipeline on 3,450 linear feet SLR Property

Alta Mesa/Pontchartrain Above ground pipeline on 3,450 linear feet SLR Property



Alta Mesa/Pontchartrain Above ground pipeline on 3,450 linear feet SLR Property

Pontchartrain, Multiple Pipelines, Abandoned/Active (within SLR Property)– April 2014


April 2014 – Above Ground Pipeline Hydrologic Barrier – Pontchartrain- within SLR Property on Access Road
Ponchartrain Well

April 2014 – Above Ground Pipeline Hydrologic Barrier, Natural Gas Leak on SLR Property

Appendix C
Site #2
Natalbany Heir Unauthorized Excavation
November 2012

Site 2 - Natalbany Heirs
Unauthorized clearing/excavation
on SLR property

C-1


Site 2 - Natalbany Heirs
Unauthorized clearing/excavation
and discharge of fill
on SLR property
Trash Pile
C-2

Site 2 - Natalbany Heirs
Unauthorized clearing/excavation
on SLR property

Site 2 - Natalbany Heirs
Unauthorized clearing/excavation
and mechanized clearing
on SLR property


Site 2 - Natalbany Heirs
Unauthorized clearing/excavation
and mechanized clearing
on SLR property

Appendix D
Site #3
Natalbany 18
NOD 13 and SLR Objections

SPANISH LAKE RESTORATION, LLC

4664 Jamestown Avenue, Suite 420 Baton Rouge, Louisiana 70808
Phone: 225.928.5333 Fax: 225.246.8319

March 4, 2013

US Army Corps of Engineers
New Orleans District
Regulatory Branch
Post Office Box 60267
Attn: Mr. John Herman
Chief Central Division
Regulatory Affairs

Subject: NOD 13- MVN 2012-1434-CU
LDEQ Application WQC 130107-01

Mr. Herman;

The purpose of this correspondence is to challenge the issuance of permit MVN 2012-1434-CU as a US Army Corps of Engineers (USACE) General Permit (NOD 13). Specifically, the location of the proposed project within the Spanish Lake Subbasin and activities taken by the applicant, Alta Mesa Services, LLC (AMS) prior to construction of the Gueymard Well #1 have adversely impacted wetlands thereby exceeding the conditions and stated intent of the of the NOD 13.

Spanish Lake Restoration, LLC (SLR) is the adjacent landowner (on all sides) to MVN 2012-1434-CU, and is less than 200 yards from the well pad as shown in Figures 1 and 2. It is SLR's position that AMS adversely impacted SLR by dredging fill for the well pad from its wetlands (Natalbany Heirs Well site) and discharging within unimproved access roads and the well pad prior to permit issuance. It is also SLR's position that the completed well pad is at a surface elevation that annually floods resulting in unauthorized discharges of potential pollutants and contaminants directly into "regulated waters of the US". Documentation of this event has been provided to your office on February 4, 2013.

Freedom of Information Act Request (FOIA)
Through its designated permit agent, SLR submitted a FOIA request regarding all activities associated with issuance of MVN 2012-1434-CU from the USACE on February 14, 2012. Whereas, SLR anticipates the requested information within the 20-day response period, such requests have taken considerably longer in the past.

Thus, due to the ongoing construction activities and adverse impacts to SLR property and other jurisdictional "waters of the US" from the construction of the MVN 2012-1434-CU (Gueymard Well #1), SLR has provided these comments in advance. SLR will revise its comments once it has received the requested information from the USACE.

The essence of regulations regarding the disposal of fill in regulated waters of the United States including wetlands (*CFR 40 Part, 230 Section 404(b)(1); Guidelines for Specification of Disposal Sites for Dredged or Fill Material)*, and the regulatory policies for processing and permitting these discharges (*33 CFR Ch. II Part 320 General Regulatory Policies §320.3 (a) and (i) §320.4 (a) (1), §320.4 (a)(3)(i), §320.4 (a)(3)(v), §320.4 (a)(3)viii, §320.4 (b)(5) (d), §320.4 (b) (5)(g), and 33 CFR Ch. II; Part 352 Processing of Department of the Army Permits (1) (d)* are to protect the functional value and integrity of aquatic resources, which are a public resource. This is typically achieved by an appropriate public notice, a review of all aspects and characteristics of the potential fill activity, and appropriate compensatory mitigation. This process was not followed in the best interest of the public by issuance of MVN 2012-1434-CU as a General Permit. Specifically, the project was not properly publically noticed or fully compensated for impacts to aquatic resources.

Please find below SLR's comments and objections to specific NOD 13 Conditions. These comments are illustrated in attached Figures 1 and 2.

> *This general permit <u>does</u> <u>not</u> authorize work within the following areas:*
> *a. In or within one mile of the boundaries of any national park or monument, **wildlife refuge, management area**, state park, and established buffer zone at a national park site without approval of the respective park, refuge, management area, or monument manager.*

SLR is an approved wetland mitigation bank that was acquired in December, 2009, and is the 4,000 acres previously referred to as Lago Espanol Wetland Mitigation Bank. As shown in Figures 1 and 2, SLR completely surrounds the MVN 2012-1434-CU project area. As such, SLR is an approved conservation management area and wildlife refuge within 1 mile of the proposed activity.

SLR is within a contiguous 24,000 acres of forested wetlands of the lower Bayou Manchac Subbasin. Approximately 300,000 residents of three Louisiana Parishes live within 7 aerial miles of these wetlands and depend on its critical flood storage and protection of wetland resources including wildlife habitat. Thus, adverse impacts to these wetland resources have an elevated impact to the immediate, highly developed watershed.

The lower Bayou Manchac Subbasin has been the focus of considerable public debate for the past 5 years. The essence of the controversy within this Subbasin involves the restoration and long term protection of these wetland resources. These issues have appeared in numerous publications and newspaper articles. The regulation and restoration of hydrology within the state water bottoms of Bayou Manchac, Alligator Bayou, Spanish Lake, Bayou Braud, and Bayou Paul have been, and are still being litigated in court. Thus, it is clear that any proposed activities that may impact aquatic resources in this geographic area are of significant concern to the public and should be properly advertised.

SLR personnel advised AMS in November 2011 by phone and email that they were operating within and immediately adjacent to an approved wetland mitigation bank with a conservation servitude on all of its properties. Further, SLR fully explained to AMS that SLR has a federal obligation to minimize any adverse impact to its wetland resources.

SLR has notified the USACE of unauthorized discharge of fill and excavation of soil by AMS on SLR property on July 13, 2013 prior to permit issuance, and February 4, 2013.

For these reasons, AMS's proposed activities should have been advertised on Public Notice for the public benefit, and SLR should have been notified by mail as to the proposed activities as the adjacent property owner.

> *d. Within any area where the activity is likely to adversely affect federally listed threatened or endangered species, or a species proposed for such designation, or that is likely to destroy or adversely modify the critical habitat of such species.*

SLR personnel as well as many recreational birders and hunters have observed as many as 3 bald eagles hunting within 1 mile of the MVN 2012-1434-CU project area. SLR is not aware of a specific bald eagle nest. It should also be noted that landowners and private birding groups annually record the presence of neotropical migratory species, wading birds, and birds of prey literally in and around the immediate project area. Thus, some effort should be required to survey the potential impacts to these avian species.

The following special conditions are made a part of this permit:

> *a. Maximum length, including roads, pits, and appurtenances, authorized by this permit is 1,500 feet. Normally, the maximum top width of roads would be 20 feet, maximum berm width would be 15 feet, and the maximum top width of staggered borrow areas would be 20 feet.*

AMS has improved road, pits, and appurtenances related to this proposed activity totaling 8,347 linear feet plus 1,500 feet of constructed containment levee. Prior to the well pad and levee construction in Fall 2012, AMS improved approximately 4,647 linear ft. (of the 8,347 total linear feet) of service roads within SLR's property and 3,700 linear ft. of shared roadway leading to Gueymard #1 well pad. These activities did not constitute a single large impact to wetland resources. However, there were impacts to wetlands by these activities which were conducted solely for the purpose of advancing the construction of the Gueymard well and should be considered part of a single project as they collectively far exceed the 1,500 foot limit outlined in the NOD 13.

> *(1) A completed application form (ENG 4345), and drawings clearly showing the location, character, and extent of the proposed work (see enclosure 2).*

SLR reserves the right to comment on the permit application and final permit once we have received the FOIA information requested February 14, 2013. However it should be noted that AMS cleared, grubbed, and excavated 3,500 cubic yards of topsoil within approximately 1.5 acres of SLR land which was most likely discharged on AMS's new well pad or entrance road. SLR notified the USACE on July 13, 2012 of this unauthorized activity. AMS claims that this excavation was part of a restoration of an abandoned well pad on SLR property (MVN 2005-4437-CR). SLR believes this is a misleading statement and nothing but an attempt by the applicant to avoid responsibility for an unauthorized activity. By admission of its own contractor, AMS conducted this excavation for the sole purpose of providing fill for the Gueymard #1 well project.

> *(3) A compensatory mitigation plan to offset unavoidable wetland losses. This plan will adhere as closely as possible to the requirements of the Memorandum of Agreement between the Department of the Army and the Environmental Protection Agency (i.e.,*

compensatory mitigation will generally be in-kind, performed within the same geographical area as the project site, etc.). The compensatory mitigation plan must provide a minimum of 1 to 1 acreage replacement, with each plan evaluated on the basis of conditions existing at the proposed project site. Compensatory mitigation may consist of wetland creation, enhancement, and participation in an approved mitigation bank, etc. The plan should be designed to replace the functions of the affected project site. It may be performed on federal wildlife refuges, state wildlife management areas, and parish or private lands. The plan must include a letter from the refuge or land manager agreeing to the proposed plan. Compensatory mitigation shall be performed as specified within the individual general permit authorization.

SLR is not aware of any compensatory mitigation plan for this project. SLR's wetland resources have been adversely impacted by the construction of the AMS well issued under permit NOD 13 MVN 2012-1434-CU as follows:

- The aforementioned clearing, grubbing, excavation of 3,500 cubic yards of dredged material from approximately 1.5 acres of SLR wetlands.
- The continuous presence of heavy equipment on service roads through SLR property including the parking of earth moving equipment, 18-wheel transport trailers, 18-wheel tankers (removing condensate and brine), and stacking of boards for road stabilization since July, 2012, and continuing today. This activity clearly impacts wildlife resources and use of the property by SLR.
- The noise from equipment and drilling since October, 2012 during the 2012-2013 hunting season, adversely affecting the quality of hunting in the hunting season.
- The discharge of untreated storm water and other liquids directly into "waters of the US" from the newly constructed well pad following high water events. This well pad was constructed at an elevation that cannot sustain annual high water events. Documentation of these discharges was provided to your office on February 4, 2-13, and the
- The continuous littering potentially from oil and gas operational crews, drillers, and other AMS contractors.

These direct and cumulative impacts must be evaluated prior to assessing compensatory mitigation for the activity.

f. Fill must utilize non-wetland areas, existing roads, existing dredged material deposits, and similar areas to the maximum extent practicable.

By admission of AMS contractors, 3,500 cubic feet of surface soil was excavated for fill from SLR property within wetlands, and discharged on the well site for elevation and stability. Documentation as to AMS's unauthorized excavation of fill was reported to your office on July 13, 2012.

i. This general permit may be suspended, in whole or part, by the District Engineer if it is found to be in the public interest to do so.

SLR is respectfully requesting suspension of permit NOD 13 MVN 2012 -1434-CU for the reasons stated above.

k. Work authorized by this general permit may not be performed until the Regulatory Branch of this office has reviewed the material submitted by applicants and notified applicants that the work may proceed.

AMS began work on this well pad in late summer and early fall, 2012 much earlier than issuance of the permit. This included the dredging of fill on SLR property which was documented and sent to your office on July 13, 2012, as shown in Figure 1.

q. Material for construction of ring levees must be excavated from inside the leveed areas. All pits (e.g., production, sludge, or burn pits) must be located within in the ring levee.

Notwithstanding the excavation and use of SLR soil by AMS outlined above, there is no knowledge of the source of dredge material used to repair access roads, create the well pad or spoil bank.

x. Interests performing work under authority of this general permit must obtain water quality certification from the Louisiana Department of Environmental Quality (DEQ) before any work may be accomplished. Requests for the certification must advise the DEQ that they propose to perform their work under authority of this general permit.

On February 1, 2013 took aerial photography of the constructed Gueymard #1 well pad and provided documentation to your office on February regarding AMS discharge of untreated storm water from the well pad using a pump and point discharges. SLR assumes that this point discharge is not permitted under Section 401, Water Certification. It should be noted that AMS's discharge is directly into "waters of the US" including Bayou Braud, Spanish Lake, and Bayou Manchac. Bayou Manchac is an impaired waterway and has segments listed as a scenic river. A complete review of the Water Certification as part of the MVN 2012-1434-CU should be conducted to assess compliance or the need for an individual LPDES permit.

In summary, SLR respectfully request that the USACE suspend NOD 13 MVN 2012-1434-CU as it was not properly publically advertised and that direct and cumulative wetland impacts associated with this project were not fully assessed or compensated.

Please contact me at 225-928-5333 if you have any questions regarding this correspondence.

Scott Nesbit

Chief Technical Officer
Spanish Lake Restoration, LLC
4664 Jamestown Ave., Suite 420
Baton Rouge, LA 70808

Cc: Jamie Phillipe, Louisiana Department of Environmental Quality

SPANISH LAKE RESTORATION, LLC

4664 Jamestown Avenue, Suite 420 Baton Rouge, Louisiana 70808
Phone: 225.928.5333 Fax: 225.246.8319

March 18, 2013

US Army Corps of Engineers
New Orleans District
Regulatory Branch
Post Office Box 60267
Attn: Mr. John Herman
Chief Central Division
Regulatory Affairs

Subject: NOD 13- MVN 2012-1434-CU
LDEQ Application WQC 130107-01

Mr. Herman;

The purpose of this correspondence is to respectfully provide final comments challenging the issuance of permit MVN 2012-1434-CU as a US Army Corps of Engineers (USACE) General Permit (NOD 13). Spanish Lake Restoration, LLC. (SLR) provided its initial comments to your office on March 4, 2013 prior to receiving the USACE file information following a February 14, 2013, Freedom of Information Act (FOIA) request. SLR received the FOIA information March 15, 2013, and is providing these comments to complete SLR's response.

SLR fully understands and respects the fact that the USACE has the full authority to issue Section 404 permits, including General Permits. SLR is a wetland mitigation bank and has signed an agreement with the USACE to protect its wetland resources. SLR monitors its property weekly and has carefully observed the activities of Alta Mesa Services, LP (AMS) and other oil and gas operators within its conservation servitude.

Beginning in 2011, SLR officers repeatedly contacted AMS to discuss and advise them regarding its operations on SLR property, including providing detailed comments for establishing well pads on SLR property. Regardless of these efforts, AMS has conducted activities that have adversely impacted SLR's wetlands and other adjacent wetlands. It is for these reasons that SLR has prepared this challenge to the issuance of USACE permit MVN 2012-1434-CU as a NOD 13.

The information received in the FOIA request regarding MVN 2012-1434-CU from the USACE does not substantively change SLR's initial comments provided on March 4, 2013. Conversely, the information received only further supports the allegation that AMS did not submit a complete application as required by the NOD 13 which states that *" A completed application form (ENG 4345), and drawings clearly showing the location, character, and extent of the proposed work (see enclosure 2)"*.

Specifically, the permit application lacks clarity as stated below and as shown in the attached Figure 1 and site photographs.

Location and Maximum Length (roads, pits, appurtenances)

- The AMS permit application and sheets 2 and 3 do not show the location of temporary laydown areas that will be needed for drilling pipe, gravel, fuel tanks, generators or lighting, vehicle and equipment parking, temporary offices, temporary or permanent storage tanks for condensate or brine, product lines, board roads, culverts, access road repairs not in the 200 x 300 – foot well pad, or for a permanent flare if needed,
- AMS does not show the location of proposed product lines from the well pad to the various collection tanks and metering station located nearby,
- AMS shows the project area to be limited to the well pad and approximately 400 feet of access road. The attached Figure 1 and site photographs show the project area much larger including offsite dredging areas (Natalbany Heirs well site) and the use of over 1.5 miles of unimproved access roads to haul the dredged material,

Character and extent of the proposed work

- AMS does not state or show on the permit application or Sheets 2 and 3 of 3 the intent to clear, grub, and excavate (on-site and off-site in adjacent wetlands) fill to be discharged for the well pad and access roads;
- AMS does not state or show preliminary clearing and grading needed for lay down areas along access roads for stacking board roads and equipment, or to excavate fill from SLR property, nor does AMS indicate access roads that were widened and repaired to support heavy trucks and machinery,
- AMS states on sheet 3 of 3 that the fill will come from within the well pad which is in direct contrast to its admission of using offsite fill,
- AMS utilized a "point discharge" which requires a LPDES permit from the Louisiana Department of Environmental Quality, and

Initiation of Work

- Alta Mesa Services, LP (AMS) permit was issued on 10-22-2012. Given that surface soil was excavated from SLR for the well pad in July 2012, it is likely that AMS began work for the new pad three months prior to permit issuance.

Compensatory Mitigation –NOD 13 specifies that mitigation must be"...performed in the same geographical area as the site, etc)

- SLR is the adjacent landowner to MVN-2012-1434-CU and shares all waterways and other waters of the US with the proposed activity. However, AMS never contacted SLR, an approved wetland mitigation bank with available credits, regarding a bid for compensatory mitigation for the proposed activity. Instead, AMS secured compensatory mitigation at the Gum Swamp Mitigation site which is outside of the immediate Spanish Lake Basin. Whereas the purchase of the Gum Swamp credits is within the USACE guidance, their exclusion of SLR as a mitigation option only raises concern regarding AMS' apparent intent to exclude public comments from adjacent landowners that are clearly impacted.
- The permit issued did not incorporate cumulative wetland impacts from offsite discharges, clearing, grading, etc.

In summary, AMS prepared and submitted a Section 404 permit application with minimal information regarding its proposed activity to establish the Gueymard Well. Whereas the application may meet the basic standard for permit processing of an individual permit to proceed to Public Notice, it does not appear to meet the higher standard required for issuance of a General Permit NOD 13 which doesn't require Public Notice or adjacent landowner notification.

Thank you for your consideration of these comments and please contact me at 225-928-5333 if you have any questions.

Respectfully,

Scott Nesbit

Chief Technical Officer
Spanish Lake Restoration, LLC
4664 Jamestown Ave. Suite 420
Baton Rouge, LA 70808

cc: Mr. Jamie Phillippe
LDEQ Water Certification

Appendix E
Site #4
Natalbany 8
Permit and SLR Objections

JOINT PUBLIC NOTICE

United States Army
Corps of Engineers
New Orleans District
Regulatory Branch
Post Office Box 60267
New Orleans, Louisiana 70160-0267

(504) 862-1577
Project Manager
Amy Oestringer
Permit Application Number
MVN 2011-2865 CL

State of Louisiana
Department of Environmental Quality
ATTN: Water Quality Certifications
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

(225) 219-3225
Project Manager
Jaime Phillippe
WQC Application Number
130107-01

JAN 7 2013

Interested parties are hereby notified that a permit application has been received by the New Orleans District of the U.S. Army Corps of Engineers pursuant to:
[ ] Section 10 of the Rivers and Harbors Act of March 3, 1899 (30 Stat. 1151; 33 USC 403); and/or [X] Section 404 of the Clean Water Act (86 Stat. 816; 33 USC 1344).

Application has also been made to the Louisiana Department of Environmental Quality, for a Water Quality Certification (WQC) in accordance with statutory authority contained in LRS30:2047 A(3), and provisions of Section 401 of the Clean Water Act (P.L.95-17).

CLEAR, GRADE AND FILL FOR A WELL PAD IN IBERVILLE PARISH

NAME OF APPLICANT: Alta Mesa Services, LP, c/o C.H. Fenstermaker & Associates, Inc., Attn: Matt McLindon, 1100 Poydras Street, Suite 1550, New Orleans, Louisiana 70163.

LOCATION OF WORK: Located in Section 7, T9S-R2E, Lat: 30.27491, Long: -91.0459, in Iberville Parish, as shown on the enclosed drawings.

CHARACTER OF WORK: Clear, grade, install and maintain fill for a 300' x 300' well pad to drill the Natalbany B No. 8 Well. This will require placement of approximately 5,626 cubic yards of fill material, and impact approximately 2.1 acres of jurisdictional bottomland hardwood wetland habitat.

The comment period for the Department of the Army Permit and the Louisiana Department of Environmental Quality WQC will close **20 days** from the date of this joint public notice. Written comments, including suggestions for modifications or objections to the proposed work, stating reasons thereof, are being solicited from anyone having interest in this permit and/or this WQC request and must be mailed so as to be received before or by the last day of the comment period. Letters concerning the Corps of Engineers permit application must reference the applicant's name and the Permit Application Number, and be mailed to the Corps of Engineers at the address above, **ATTENTION: REGULATORY BRANCH**. Individuals or parties may request an extension of time in which to comment on the proposed work by writing to the project manager or clicking on the project manager's name on the public notice grid on the web page. Any request must be specific and substantively supportive of the requested extension, and received by this office prior to the end of the initial comment period. The Section Chief will review the request and the requestor will be promptly notified of the decision to grant or deny the request. If granted, the time extension will be continuous to the initial comment period and, inclusive of the initial comment period, will not exceed a total of 30 calendar days. Letters concerning the Water Quality Certification must reference the applicant's name and the WQC Application number and be mailed to the Louisiana Department of Environmental Quality at the address above.

The application for this proposed project is on file with the Louisiana Department of Environmental Quality and may be examined during weekdays between 8:00 a.m. and 4:30 p.m. Copies may be obtained upon payment of costs of reproduction.

Corps of Engineers Permit Criteria

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

The U.S. Army Corps of Engineers is soliciting comments from the public, federal, state, and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the U.S. Army Corps of Engineers to determine whether to make, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

No properties listed on the National Register of Historic Places are near the proposed work. The possibility exists that the proposed work may damage or destroy presently unknown archeological, scientific, prehistorical, historical sites, or data. Copies of this notice are being sent to the State Archeologist and the State Historic Preservation Officer.

Our initial finding is that the proposed work would neither affect any species listed as endangered by the U.S. Departments of Interior or Commerce, nor affect any habitat designated as critical to the survival and recovery of any endangered species.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The applicant's proposal would result in the destruction or alteration of n/a acres of EFH utilized by various life stages of red drum and penaeid shrimp. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

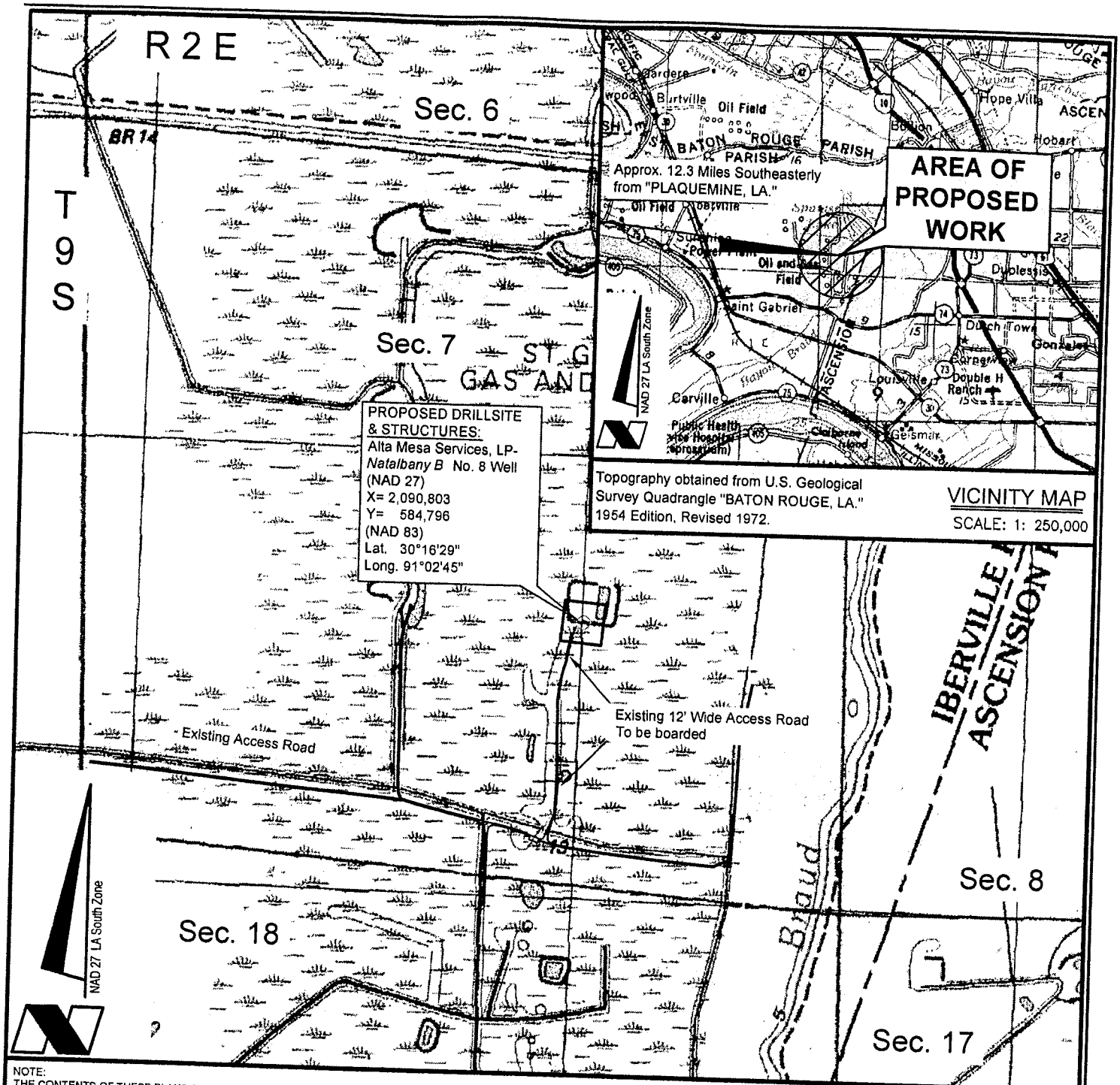
If the proposed work involves deposits of dredged or fill material into navigable waters, the evaluation of the probable impacts will include the application of guidelines established by the Administrator of the Environmental Protection Agency. Also, a certification that the proposed activity will not violate applicable water quality standards will be required from the Department of Environmental Quality, before a permit is issued.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

You are requested to communicate the information contained in this notice to any other parties whom you deem likely to have interest in the matter.

for John M. Herman
Chief, Central Evaluation Section

Enclosure



NOTE:
THE CONTENTS OF THESE PLANS ARE INTENDED EXCLUSIVELY FOR THE PURPOSE OF OBTAINING ENVIRONMENTAL COMPLIANCE PERMITS

VICINITY MAP

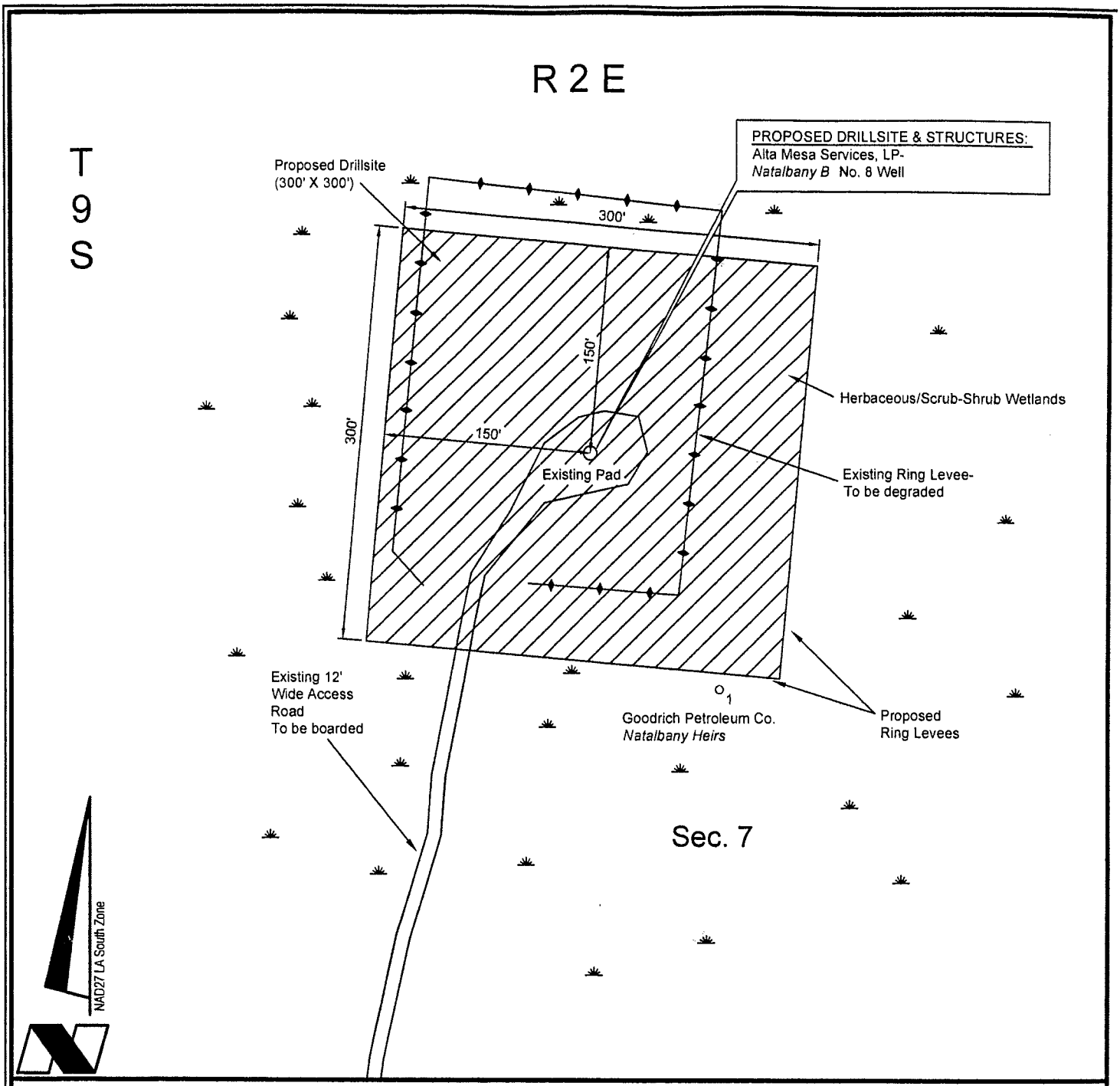
1000 0 500 1000
Scale: 1" = 1000'

ALTA MESA SERVICES, LP

PROPOSED DRILLSITE & STRUCTURES
For Drilling Natalbany B No. 8 Well
Section 7, T9S-R2E
Iberville Parish, Louisiana

C.H. FENSTERMAKER & ASSOCIATES, INC.
Lafayette New Orleans Houston
135 Regency Sq. Lafayette, LA 70508
Ph. 337-237-2200 Fax. 337-232-3299
www.fenstermaker.com

DRAWN BY: PCS	REVISED: 10/08/12 DCW	DATE: 12/12/11
PROJ. MGR.: DCW		SHEET 1 OF 3 SHEETS
FILENAME: T:\2009\2096022.01C\DWG\ALTA_MESA_PROP_DRILLSITE_COE.dwg		



NOTE:
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PLAN VIEW

100 0 50 100
Scale: 1" = 100'

ALTA MESA SERVICES, LP

PROPOSED DRILLSITE & STRUCTURES

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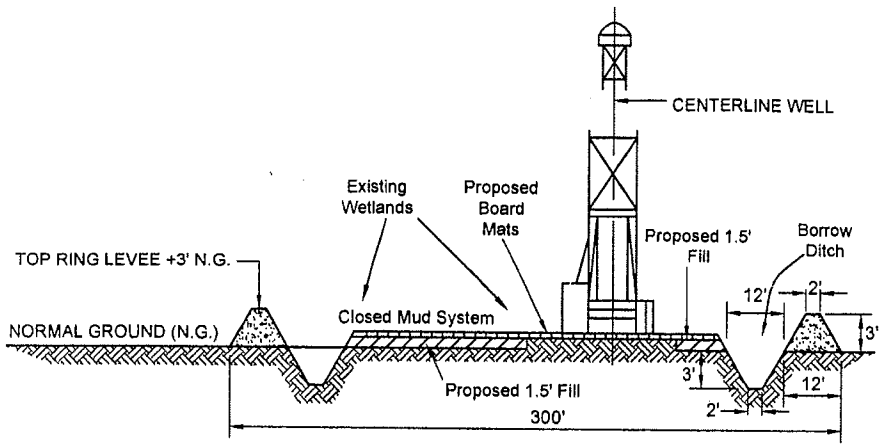
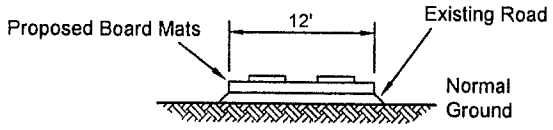
DRAWN BY: PCS	REVISED: 10/08/12 DCW	DATE: 12/12/11
PROJ. MGR.: DCW		SHEET 2 OF 3 SHEETS
FILENAME: T:\2009\2096022.01C\DWG\ALTA_MESA_PROP_DRILLSITE_COE.dwg		

FILL REQUIRED FOR DRILLSITE & RING LEVEES . . . . 5,626 CU. YDS.



TYPICAL CROSS-SECTION OF DRILLSITE
No Scale



TYPICAL BOARD ROAD
No Scale

NOTES:

1. Material for drillsite levees will be hauled in from offsite upland location.
2. The drillsite and ring levees will be degraded within 90 days following abandonment. The material will be deposited to the extent practicable into the borrow areas from which the material was excavated and the area leveled and restored to as near preproject conditions as practicable.
3. In the event the well is productive, boards may be replaced with gravel or other suitable permitizing material and the area restored except for the minimum area required for production.
4. Closed Mud System will be used.

NOTE:
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ALTA MESA SERVICES, LP

PROPOSED DRILLSITE & STRUCTURES
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DRAWN BY: PCS	REVISED: 10/08/12 DCW	DATE: 12/12/11
PROJ. MGR.: DCW		SHEET 3 OF 3 SHEETS
FILENAME: T:\2009\2096022.01C\DWG\ALTA_MESA_PROP_DRILLSITE_COE.dwg		

SPANISH LAKE RESTORATION, LLC

7478 Highland Rd Baton Rouge, LA 70808
Phone: 225.928.5333 Fax: 225.246.8319

August 1, 2013

MEMORADUM

FROM: Spanish Lake Restoration LLC
TO: Kent Parsons, Tim Hardy, Andre Bourgeois, Steve Wallace
SUBJECT: USACE Issuance of Alta Mesa Permit MVN-2011-2865-CL

Purpose and Need
The purpose of this memorandum is to provide the documentation needed to object to the issuance of the USACE Permit MVN-2011-2865. The formal objection to this permit and subsequent USACE meetings will greatly facilitate the reestablishment of SLR mitigation value and market which was degraded in July 2011.

Objectives
SLR objectives for the formal objection to permit issuance include the following:

- To demonstrate that the permit application is an inaccurate and incomplete individual permit application;
- To demonstrate that the applicant did not supply available relevant information to USACE and agencies;
- To require a revised or modified permit application;
- To elevate the level of review to all resource agencies and IRT members;
- To demonstrate that SLR has suitable compensatory mitigation for the proposed activity;
- To establish a standard level of accuracy disclosure and accuracy for all permit applications within SLR's conservation servitude; and
- To establish a revised MCM value for remaining SLR Units.

Permit History and General Comments
The USACE issued a Joint Public notice for Alta Mesa Services, LP well pad in Iberville Parish on January 7, 2013. This public notice for an individual Section 404 permit included a vicinity map, plan view and cross section.

On February 4, 2013 SLR, the landowner and approved wetland mitigation bank supplied extensive comments regarding the inaccuracy and omissions on the permit application. SLR conducted low altitude aerial surveillance (helicopter) and photographs to provide accurate information regarding existing conditions.

On July 18, the USACE issued a final individual permit for the Alta Mesa Services proposed well. The permit issued did not incorporate any of the written comments by SLR include a complete description of the project area and activities, accurate elevations, existing conditions including habitat type, spoil banks, or topography, grading and trash removal and disposal, identification of fill to be used or other features.

The permit figures (Vicinity, Plan View, Cross Section, are nearly identical, having only three minor changes which include the following:

Plan View (sheet 2 of 3)

Heavier weight hatching of limits of new well pad, a note indicating "Existing Northern Ring Levee to be left in place", and the use of a topographic map as the based map.

Cross Section (sheet 3 of 3)

A note stating "existing elevation is 10 feet; proposed elevation 12 ft.
This note is inaccurate. The base elevation is of the well head and pad is between 5-6 feet NGVD (as shown on Sheet 2 of 3).

Permit – Reference of Incomplete and Inaccurate Information

MVN-2011-2865-CL
(Page 1)
Error- Project Location: In the *White Castle Oil and Gas Field* in Iberville Parish, Louisiana
Correction – Project Area is in the *St. Gabriel Oil and Gas Field* in Iberville Parish, LA.

Special Conditions
(Page 2)

#2. Limits of authorization;
c. This permit does not authorize any injury to the property or rights of others.
Injury: The proposed project and authorized activity will injure the property by violating the conditions SLR's Mitigation Banking Instrument and Conservation Servitude.

(Page 3)
#4. Reliance on Applicants's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
Omissions- SLR has provided the application with important information regarding the type of quality of habitat, suitable mitigation options within SLR property, constraints of is Conservation Servitude, and other information that were not included and nor reflect in the final permit, general conditions or special conditions. This information was provided to the USACE by SLR on February 4, 2013 in response to the Public Notice.

#5. Reevaluation of the Permit Decision-

b. the applicant has not provide complete and accurate information.
SLR requests a reevaluation of the Permit Decision.

Page 5.

Special Conditions (continued)

16. Compensatory mitigation options provided by the USACE were incomplete excluding SLR which has appropriate mitigation.

SLR was damaged by the USACE's omission of SLR for compensatory mitigation.

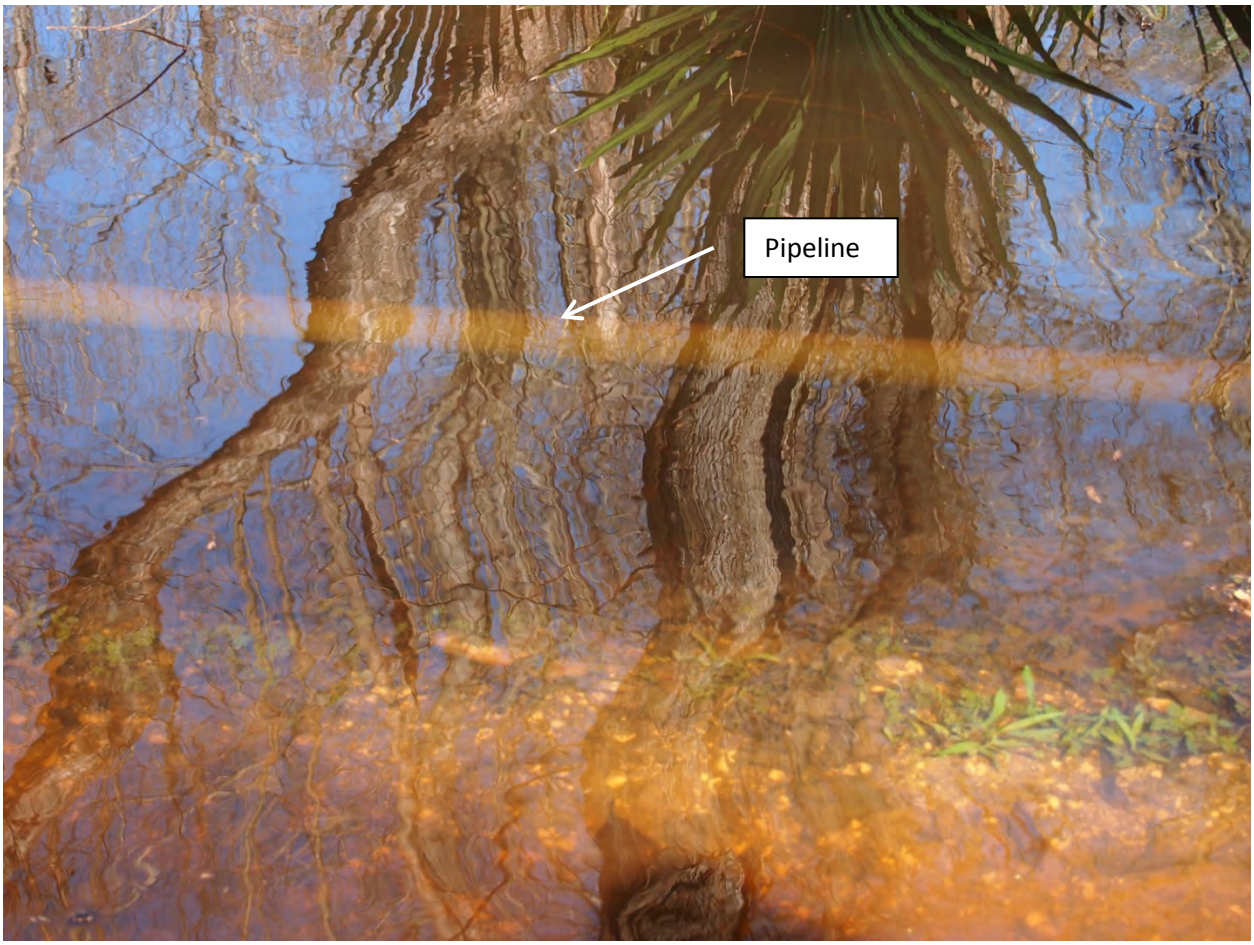
Permit Figures (Sheets 1-3 of 3).

Neither the Plan View or the Cross Section shows or suggests that there is substantive clearing of trees on existing spoil banks that must be grubbed and removed. The method of removal is not noted. The cross section is a typical and is not site specific showing existing barrow areas to fill, vegetated spoil banks to be removed and degraded. There is a need for a site specific cross section because it is an individual permit for a single well pad.

The cross section states that 1.5 feet of fill will be added, but doesn't show that the final elevation, which will be less than 7.5 ft NGVD. These elevations (existing and proposed) are below flood elevations in this area and will be submerged several times per year potentially causing a release of soil and oil into "waters of the US".

Appendix F
Site #5
Petrodome Photos
2013-2014

Site 5 – Petrodome Pipeline, Hydrologic Barrier – February 2013-on SLR Property



Site 5 – Petrodome Pipeline, Hydrologic Barrier on 1331 Linear feet of SLR Property, February 2013

Site 5 – Petrodome Pipeline under flooded conditions on SLR Property, hydrologic barrier, February 2013

Site 5 Petrodome Storage Tanks, February 2013, Well Pad off SLR Property, above ground pipeline traverses 1331 Linear feet of SLR Property

Site 5, Petrodome Pipeline, on 1331 Linear feet on SLR Property, Fallen Debris, February 2013

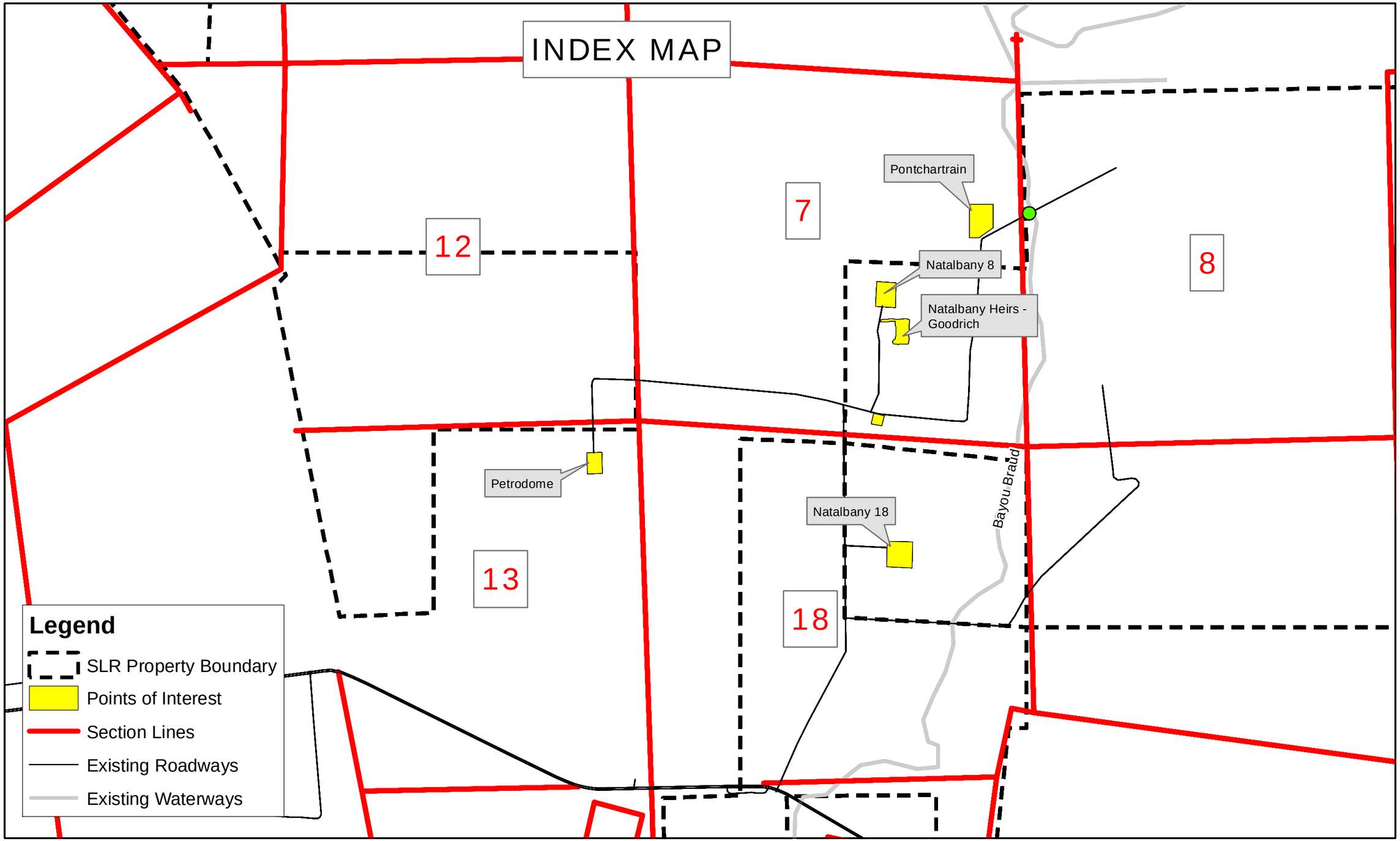
Site 5 –Petrodome Pipeline, above ground within wetlands, on 1331 Linear feet on SLR Property

Site 5 Petrodome above ground pipeline along access road, Feb 2014, off SLR property from well pad

Site 5- Petrodome, deep rutting and above ground pipeline and hydrologic impacts, on 1331 linear feet Feb. 2014

Site 5- Petrodome pipeline after a normal flood event February 2014, on 1331 linear feet SLR property

Appendix G
Aerial and Ground Photography
High Water Event
January – February 2013


INDEX MAP
12
7
8
13
18
Pontchartrain
Natalbany 8
Natalbany Heirs - Goodrich
Petrodome
Natalbany 18
Bayou Braud
Legend
SLR Property Boundary
Points of Interest
Section Lines
Existing Roadways
Existing Waterways

SHEET 1 OF 4
Section 7, T9S, R2E
Natalbany #8 (Site 4)
High Water Event - January 2013

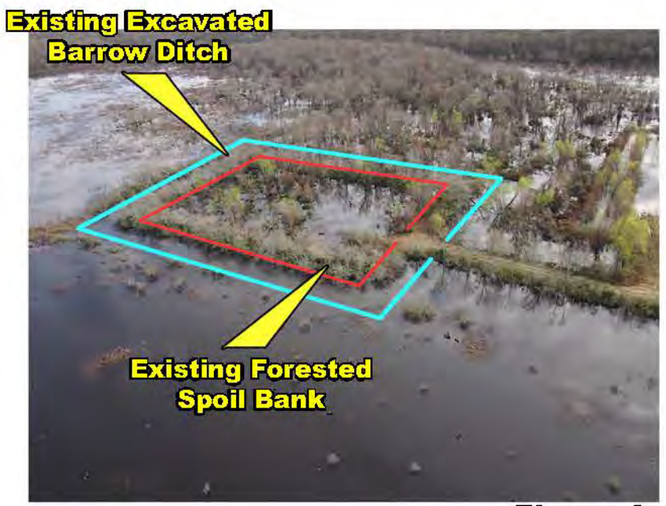


Figure A

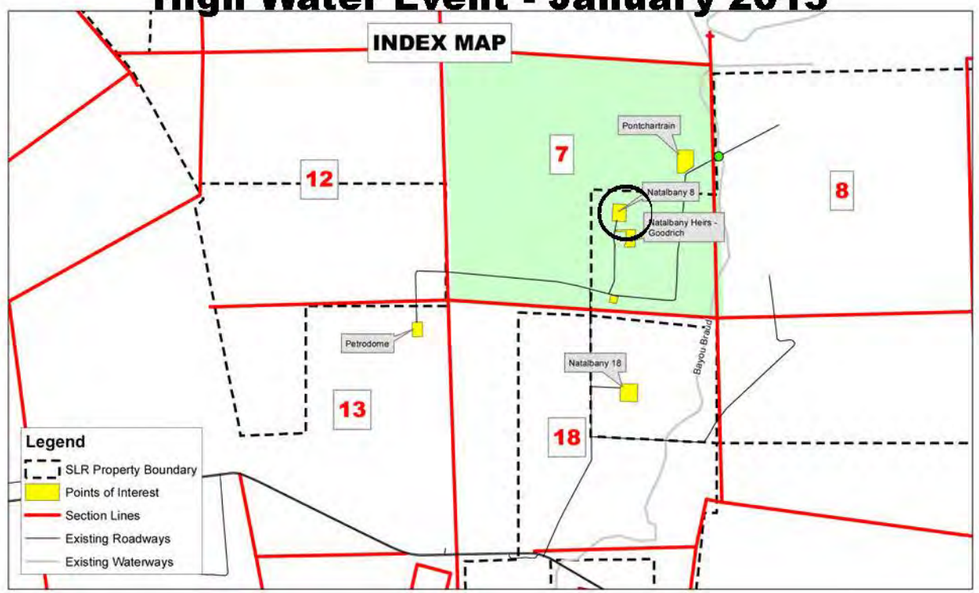


Figure E

Figure B

Figure C

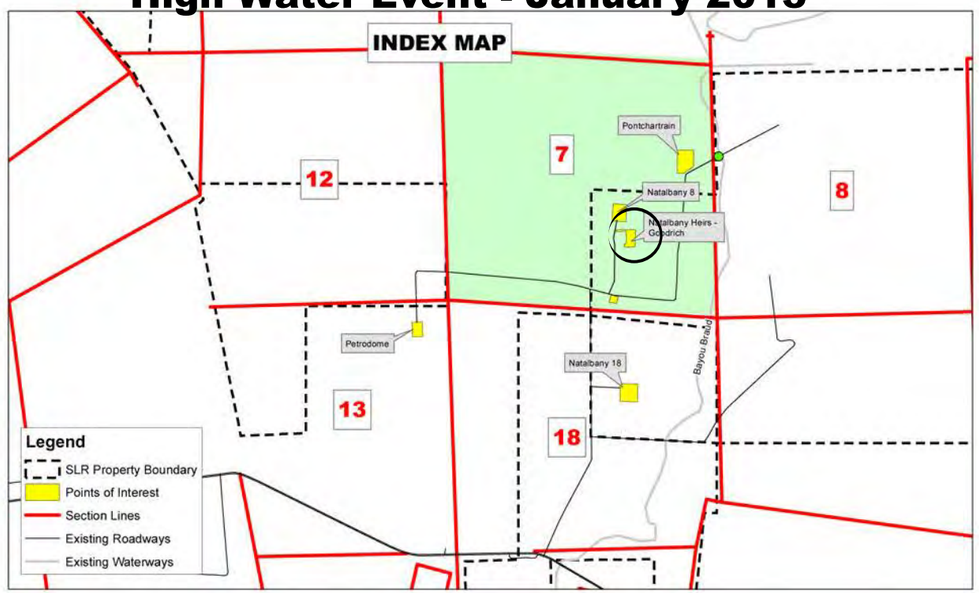
Figure D

Spanish Lake Restoration, LLC

SHEET 2 OF 4
Section 7, T9S, R2E
Natalbany Heirs Site 2
High Water Event - January 2013

Site #2

January 2013 **Figure A**



March 2013 **Figure E**

January 2013 **Figure B**

January 2013 **Figure C**

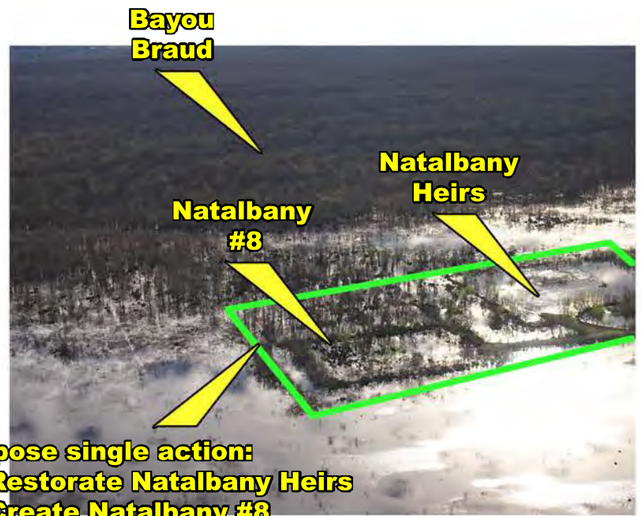
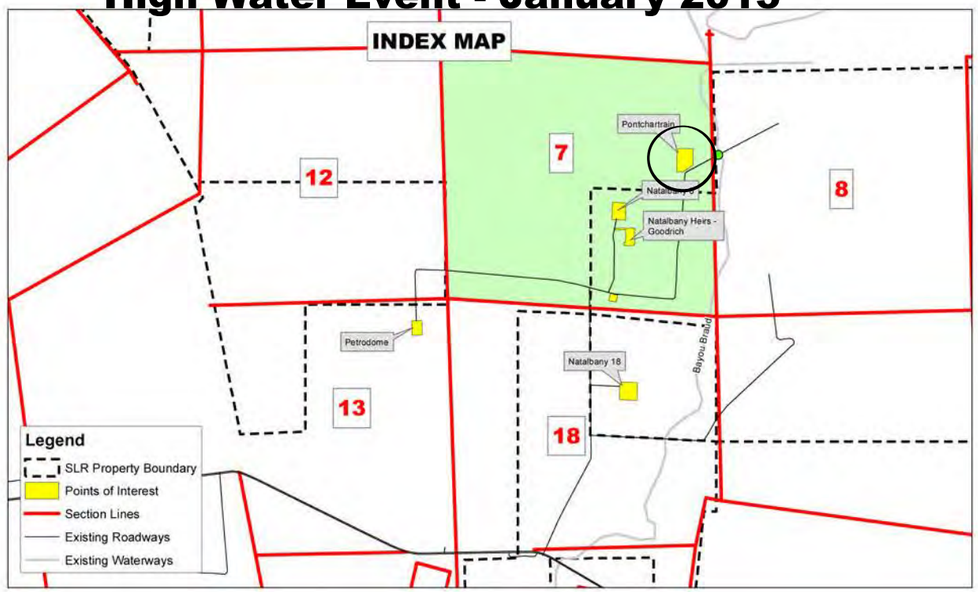
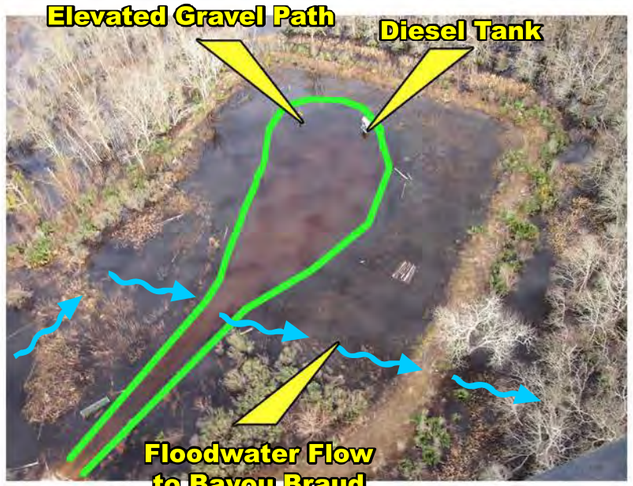


Figure D

Spanish Lake Restoration, LLC

SHEET 3 OF 4
Section 7, T9S, R2E
Pontchartrain Site 1
High Water Event - January 2013





January 2013 **Figure A**

January 2013 **Figure E**

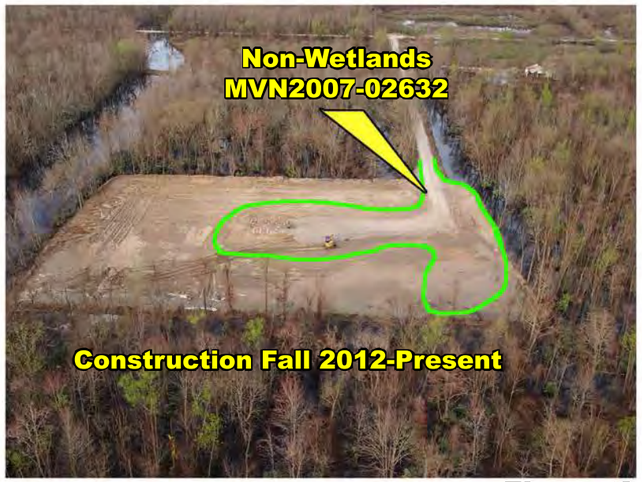
March 2013 **Figure B**

March 2013 **Figure C**

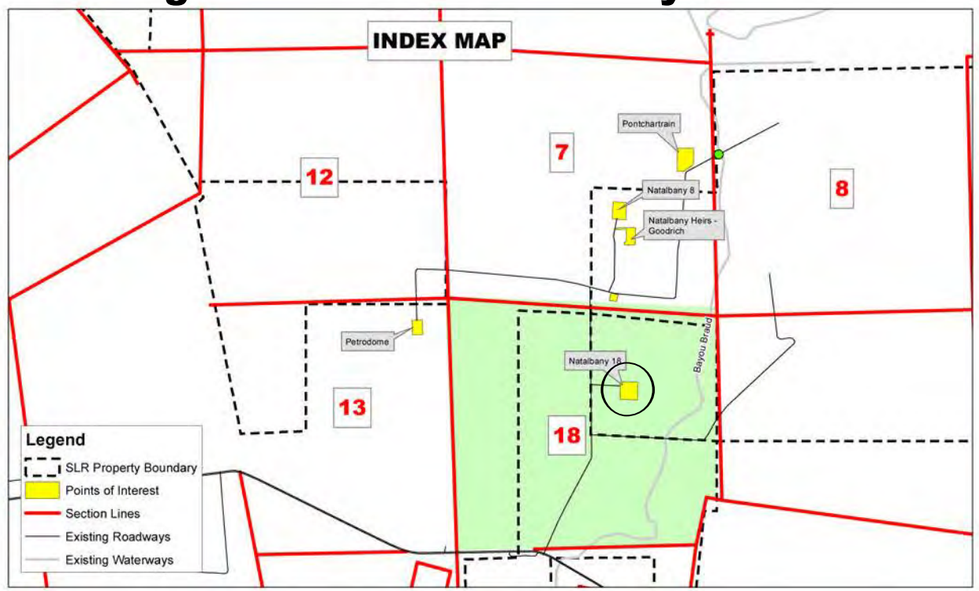
March 2013 **Figure D**

Spanish Lake Restoration, LLC

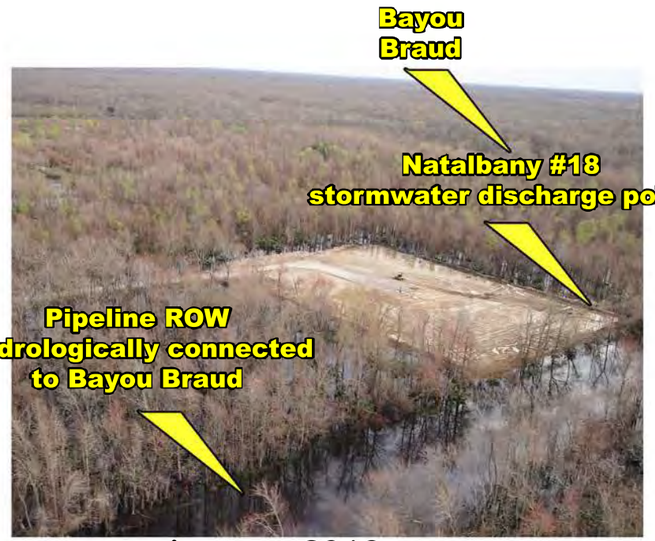
SHEET 4 OF 4
Section 18, T9S, R2E
Natalbany #18 Site 2
High Water Event - January 2013



January 2013 **Figure A**

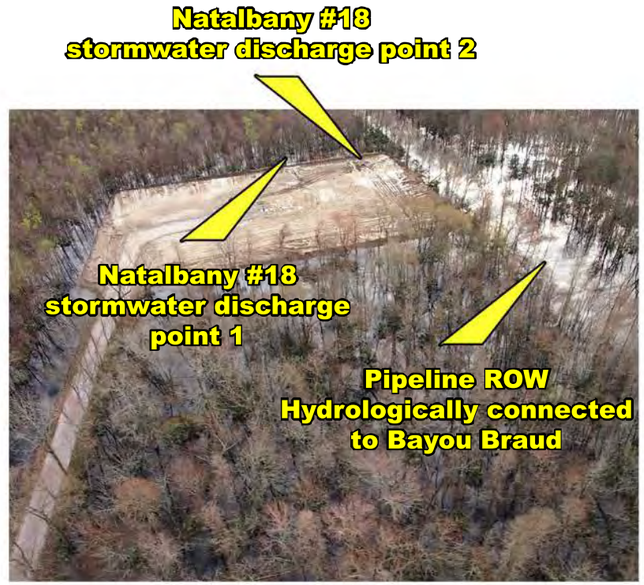


January 2013 **Figure E**



January 2013 **Figure B**

January 2013 **Figure C**

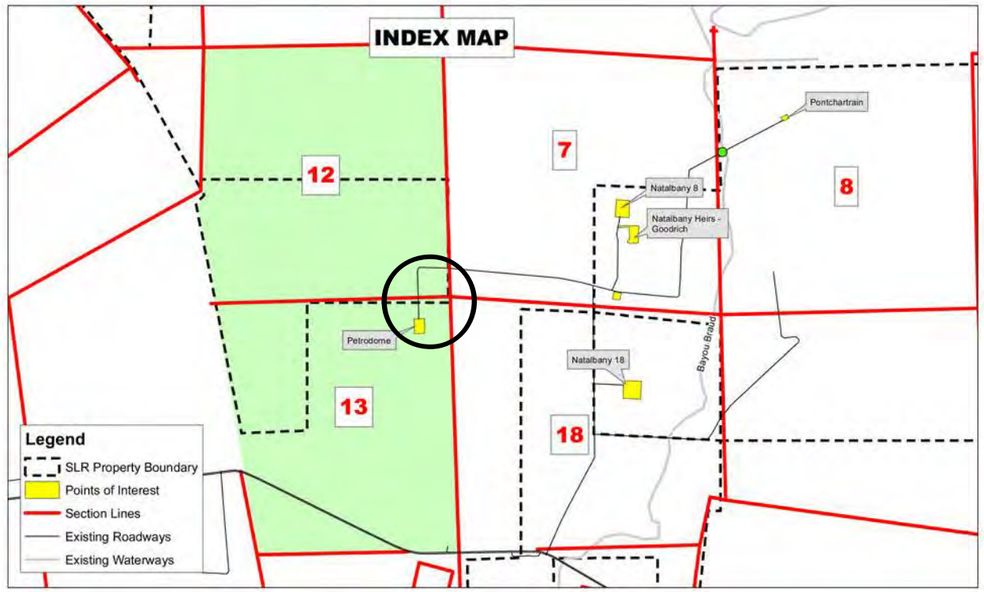


January 2013 **Figure D**

Spanish Lake Restoration, LLC

Section 12 & 13, T9S, R1E
Petrodome Well and Above Ground Pipe Site 5
High Water Event - January 2013

January 2013 **Figure A**



March 2013
Receeding Flood **Figure E**

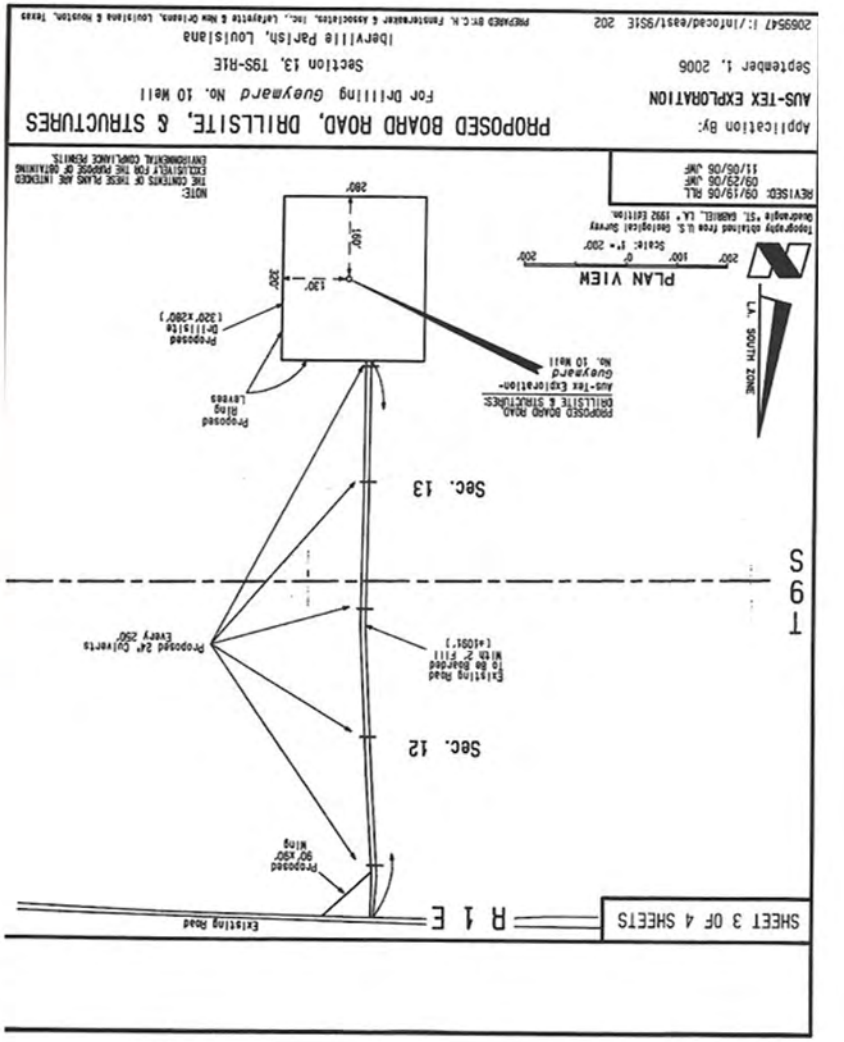
January 2013 **Figure B**

January 2013 **Figure C**

March 2013 - Receeding Flood **Figure D**

Spanish Lake Restoration, LLC

Petrodome
Actual Drillsite and Structures
January 2014



Petrodome
Permitted Drillsite and Structures

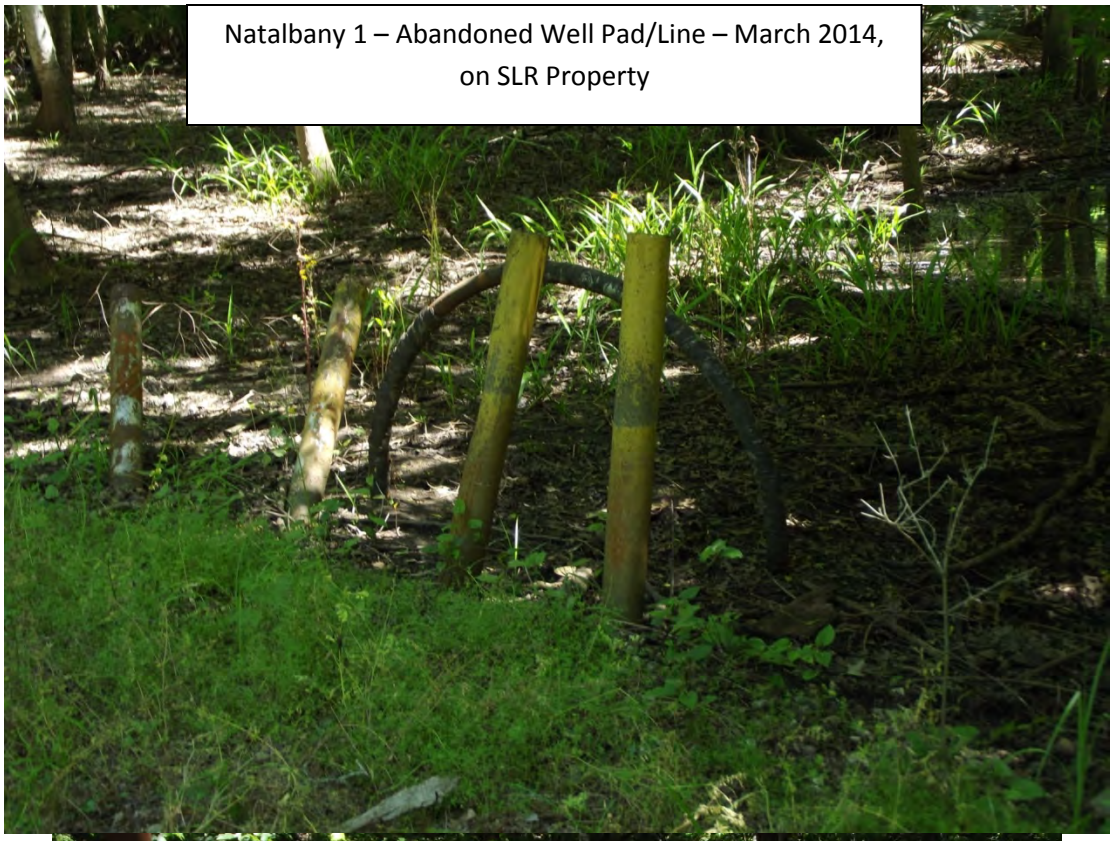
Appendix H
Old Oil and Gas Activity and Secondary Impacts

Abandoned Tanks Containing Process Fluids/Hydrocarbons on SLR Property – March 2014

Pontchartrain Pipeline Pipeline Leak within SLR property – April 2014

Natalbany 1 – Not Accessible due to Damaged Bayou Braud Bridge, on SLR Property

Natalbany 1 – Abandoned Well Pad/Line – March 2014, on SLR Property



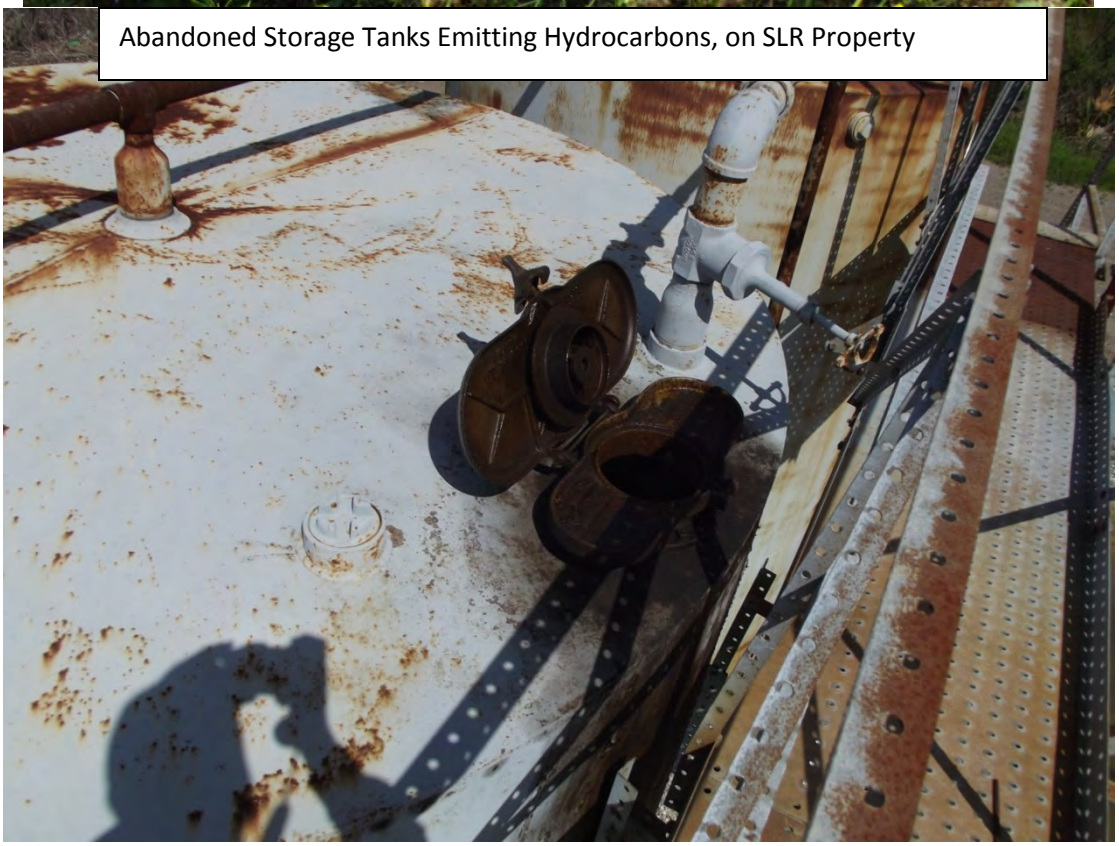
Natalbany 1 – Abandoned Structures - March 2014, on SLR Property

Natalbany 1 – Abandoned Lines, Hydrologic Barriers – March 2014, On SLR Property

Abandoned Structures/Elevated Pad – March 2014 on SLR Property

Abandoned Surface Pipeline – Natalbany 1 March 2014-on SLR Property

Abandoned Storage Tanks Emitting Hydrocarbons, on SLR Property



Broken Culvert – Elevated Pipeline, on SLR Property


CHEVROLET